

# ■ The Media Self-Regulation Guidebook

All questions and answers

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The OSCE Representative on Freedom of the Media  
Miklós Haraszti

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## Foreword

### Miklós Haraszti

The initiative for this *Media Self-Regulation Guidebook* lies at the heart of my Office's mandate to defend and support media freedom in the OSCE area.

My office supports journalists who wish to unite in their efforts to raise professional standards and thus strengthen the social standing of journalism. The co-operation between journalists in the field of ethics is also a great training ground for their co-operation in demanding their legitimate rights from governments.

However, quality should never be a pre-requisite for freedom. Only a fully free press can be fully responsible.

I see self-regulation and the promotion of quality journalism as additional safeguards of media freedom and even of media power. It is in this spirit that the guidebook aims to offer information to journalists, editors, publishers, and media students, as well as to government officials.

Composed of questions and answers, this guidebook is practical and easy to use. There is no 'one-fits-all' model that can be readily adopted anywhere. Therefore, the publication does not focus on specific countries, but rather on a wide range of practical concerns. How do the existing self-regulatory mechanisms work? What challenges do they face? How to establish or enhance them?

Each chapter highlights particular aspects of media self-regulation, including the role of codes of ethics and various accountability mechanisms, such as

ombudspersons or press councils. The readers, I hope, will find solutions that they can tailor to their countries' conditions.

It is my hope that this guidebook will encourage the further development of media self-regulation, boost the quality segment of journalism, and, hence, help improve the overall media freedom situation in the OSCE area.

Let me express my gratitude to the Governments of France, Germany, and Ireland for generously supporting the creation of this unique publication.

## Chapter I

# The merits of media self-regulation

Balancing rights and responsibilities

*By Miklós Haraszti*

Media self-regulation is a joint endeavour by media professionals to set up voluntary editorial guidelines and abide by them in a learning process open to the public. By doing so, the independent media accept their share of responsibility for the quality of public discourse in the nation, while fully preserving their editorial autonomy in shaping it.

## 1. The nature of media self-regulation

### *Is self-regulation about political content?*

Never. Self-regulation is not censorship and not even self-censorship. It is about establishing minimum principles on ethics, accuracy, personal rights and so on, while fully preserving editorial freedom on what to report and what opinions to express.

### *Is self-regulation about a failure-free press?*

Nobody's perfect. Besides, publicly expressed criticism will always be perceived as incorrect by those scrutinized. Self-regulation helps the media respond to legitimate complaints, and correct mistakes in a trial-and-error way.

### *Who are the players?*

Self-regulation is a pledge by quality-conscious media professionals to maintain a dialogue with the public. A complaint mechanism is set up to deal with justified concerns in a rational and autonomous way.

In the media, obviously only those outlets whose journalists, editors and owners seek to produce a responsible press would engage in this dialogue. Self-regulation can be set up both industry-wide and in-house.

Outside the media, political institutions and public figures are usually the main providers of complaints, as reporting and commenting on their activities is an important job for the serious media. But equally interested partners could be civil society's protagonists such as business and labour, religious and minority organizations, traditional and newly established interest groups, and, of course, individual members of the public.

***Why is media self-regulation good for the press?***

By promoting standards, self-regulation helps maintain the media's credibility with the public. This is particularly welcome in new democracies, most of which are also new to an independent press. Media self-regulation helps convince the public that the free media are not irresponsible.

At the same time, self-regulation protects the right of journalists to be independent, and to be judged for professional mistakes not by those in power but by their colleagues.

When it comes to correcting factual errors or violations of personal rights by the press, satisfaction over the judgments of self-regulatory bodies lessens pressure on the judiciary system to sanction journalists.

***Why is media self-regulation good for the public?***

It is quite natural for media consumers to seek guarantees about the value of journalists' information. Codes of ethics provide guidance on editorial standards, while complaint mechanisms offer a kind of "quality insurance".

Complaints launched with self-regulatory bodies come at no cost, unlike court proceedings. This is a considerable advantage for the average citizen. There are benefits for complaining politicians, such as the speedy resolution of disputes, and the satisfaction of seeing mistakes acknowledged publicly and voluntarily by the press.

***Why is media self-regulation good for democracy?***

Democracy is not only about disputes. It is also about a shared culture of disputing in a rational and fair manner. Governments, even if freely elected, are participants in the political contest and therefore are not best-suited to enforce rationality and fairness. Besides, democracy is incompatible with

state custody of the press. Media self-regulation is an effort to impose democracy's political culture, independent of political forces. It also advances the transition from a government-owned, state-controlled press to one owned and controlled by civil society.

### **Five reasons for the media to develop media self-regulation**

1. It preserves editorial freedom;
2. It helps to minimize state interference;
3. It promotes media quality;
4. It is evidence of media accountability;
5. It helps readers access the media.



## 2. Media self-regulation versus regulating the media

### *Are media laws necessary?*

Yes, to a certain extent. But the press can only perform its crucial role as a watchdog of government if there is as little state control as possible.

In societies on the road to democracy, constitutional and legal guarantees are necessary to make press freedoms enforceable. For example:

- Constitutions should prohibit censorship and protect freedom of expression;
- Laws should guarantee free access to government information and protect journalists from being forced to disclose confidential sources of investigative stories;
- Regulations should guarantee the fair and transparent administration of media business such as registration, licensing, ownership disclosure and taxation.

In a democracy, unavoidable exceptions from freedom of expression must be set in law. But in order to maintain fearless debate of public issues only very few types of speech offences should be criminalised. These include words or images that would clearly and imminently endanger the rule of law, society's peace, or the safety of individuals: for example, incitement to violence, calls for discrimination, or distribution of child pornography.

Speech that “merely” shocks, disturbs or offends should be dealt with in the civil-law courts. The same applies to speech that infringes on privacy, insults dignity or defames honour – even if committed intentionally by recklessly unprofessional journalists.

### ***Can governmental regulations harm press freedoms?***

Undue legal restrictions passed by freely elected governments can be almost as oppressive for the press as the dictatorial arbitrariness of the past. This is especially the case when legal restrictions are created (or misused) with the clear intention of eliminating independent reporting and opinion. Such malicious media laws might, for example:

- Discriminate against non-state media outlets, in favour of the still-existing state-owned press, for example in the administration of such spheres as registration, taxation, printing, subscription and distribution;
- Unfairly control the issue of broadcast licences;
- Criminalize dissenting views or unwelcome investigative stories;
- Use a selective approach in the application of criminal or civil provisions protecting personal rights.

### ***Can governmental regulations unintentionally harm press freedoms while protecting other freedoms?***

Time and again, the road to unnecessary legal interference is paved with good will, and prompted by the public's real need for standards in journalism. Many undue limitations are intended to "help" enhance ethics and quality, or "balance" freedom of the press against other important values, like state security, social peace, or personal rights. In the hope of eliminating hate-filled public debate, governments often overstep the legitimate limits of criminalisation of speech and allow prosecution of all kinds of intolerant, discriminatory speech, or simply views that offend others. Such laws tend to merely impose the tastes of the ruling parliamentary majority.



Additionally, democracies can be slow to remove speech restrictions that were conceived in times when different standards applied. Examples could be:

- Criminalization of defamation, libel, and insult, instead of handling these offences in civil courts;
- Punishment of “breach of secrecy” by civilians, including journalists, instead of limiting this crime to those who have an official duty to protect the secrets;
- Special protection of high officials from verbal abuse.

### ***Can governmental regulations make the press more professional or ethical?***

No. True ethics standards can be created only by independent media professionals, and can be obeyed by them only voluntarily. Whether passed in good will or not, any attempt to impose standards on journalists by law will result in arbitrary limitation of their legitimate freedoms, and restriction of the free flow of information in society.

Of course, taxpayer-paid public-service broadcasters are obliged by law to report and comment in an objective, fair, and ethical manner. But public service requirements, too, must be formulated and enforced by independent professional bodies, and will only function if politicians refrain from interfering with editorial work.

### ***Which comes first: freedom or quality?***

Quality and self-regulation must not be treated by governments as preconditions to granting full freedom; on the contrary, ethical journalism can only develop in an atmosphere of guaranteed freedom. Journalists’ self-restraint must be preceded and accompanied by governmental self-restraint in handling of media.

### ***Can self-regulation figure in the law?***

That would be helpful in only one respect: by ensuring that ethical judgements of a self-regulation authority are not used in a court of justice by the criticised media professional, the state or the offended person.

### ***Can self-regulation help promote better laws?***

Yes, it can, but not by offering self-censorship. A self-regulated media can fight more effectively for the repeal of unnecessary regulations by:

- Convincing the public that the media are conscious of the need for standards;
- Naming and shaming corruption in the media;
- Offering complaint resolution in justified cases.

### ***What can governments do to promote self-regulation?***

Governments can best promote self-regulation by:

- Saying no to state ownership of the media;
- Ensuring full freedom from governmental interference in the press;
- Keeping the media pluralistic through anti-monopoly measures.

#### **The international legal standards concerning media regulations**

The Universal Declaration of Human Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms have made freedom of expression a right of every person.

Citizens who believe that their speech rights have been curtailed can turn to the European Court of Human Rights in Strasbourg if they fail to get satisfaction from legal mechanisms in their own countries.

The ECHR case law has identified a “triple test” to measure the correctness of media regulation. To be compatible with freedom of expression, regulation should be:

- Prescribed by law;
- In pursuit of a legitimate aim;
- Necessary in a democratic society.

Hence, if there is a less restrictive method to satisfy legitimate regulatory purposes, more restrictive methods fail the standards that protect pluralism and free expression.

Citizens who believe that their speech rights have been curtailed can also turn to the United Nations Human Rights Committee at: <http://www.ohchr.org/english/bodies/hrc>

Explanations on how to file complaints can be seen at: <http://www.ohchr.org/english/bodies/petitions/individual.htm#ccpr>

In the 30 years since the Helsinki Agreements, the OSCE participating States have adopted a number of binding commitments on freedom of the media. They can be seen at: [www.osce.org/publications/rfm/2003/10/12253\\_108\\_en.pdf](http://www.osce.org/publications/rfm/2003/10/12253_108_en.pdf) (in English)  
[www.osce.org/publications/rfm/2003/10/12253\\_108\\_ru.pdf](http://www.osce.org/publications/rfm/2003/10/12253_108_ru.pdf) (in Russian)

The OSCE Representative on Freedom of the Media ([www.osce.org/fom](http://www.osce.org/fom)) promotes compliance with these commitments through early warnings and recommendations.

### 3. The promotion of mutual respect and cultural understanding

#### ***Can self-regulation free the media from conflicts?***

No. Neither good laws nor ethics will ever fully satisfy the public about what the media do. The free media – even the quality media – will always upset those targeted by its fact-finding, by its opinions, and simply by being pluralistic.

Self-regulation is not meant to reduce the noise level of democracy. It is meant to make it an acceptable music for the public, who – especially in new democracies – find heated disputes a nuisance if they seem to be gratuitous. Ultimately, the public and the politicians must accept that freedom of expression means, in the words of the European Court of Human Rights (ECHR), “the right to shock, disturb, and offend”. The media have a strong interest in making that freedom not only tolerable but also enjoyable. Responsible self-regulation is the way to achieve that.

#### ***Is there a global cultural crisis around freedom of the press?***

There were widespread protests by Muslims in 2006 against the secular artistic depiction of Islamic topics, following the publication of cartoons showing the prophet Mohammed. The protests confirmed the existence of a new, global type of tension around the free press, similar to that existing at national level centuries earlier at the dawn of freedom of expression. The cartoons were first published by the Danish newspaper *Jyllands-Posten* in the context of defending freedom against intimidation. They were later re-published by many media outlets, both as a matter of information and as a sign of solidarity. The Muslim protests, some of which turned violent, were also partly based on genuine outrage at the impolite content of the cartoons.

During the crisis, the traditional right to satirize even established religions came under fire, sometimes literally... It proved that, in a world of dissolving boundaries, the media must be culturally sensitive on a global scale.

### ***Is there a global role for self-regulation?***

Respect for traditions should be mutual. What many of the demonstrators, and some governments, demanded was state interference into the work of the media. The globality of the cultural collision does not alter the truth that governments should play no part in the business of responsible journalism. Self-regulation is the right way to foster professionalism and global responsibility. Publications that gratuitously offend certain sections of the society or are irresponsibly ignorant of the global context should be dealt with through the self-regulatory ethics bodies of the quality press.

### ***What role can media self-regulation play in promoting mutual respect and cultural understanding?***

Media professionals bear a heavy responsibility for the quality of discourse in society and in the world. At a time of increased social or religious frictions, it is of major importance for the media not to exacerbate these tensions. Codes of conduct should collect and summarize the wisdom of the press corps in this matter.

There is no need to pit freedom of speech against more respect and more care. Enhanced awareness of different cultures and better responsiveness to global imperatives should come as an addition to free speech, not as a restriction upon it. On the other hand, enhanced sensitivity should not mean stifling criticism and debate between cultures. Not only should pluralism be protected, but also its dynamism without which there would be no progress and the world would consist of civilizations separated by walls.



## Chapter 2

# Setting up a journalistic code of ethics

The core of media self-regulation

*By Yavuz Baydar*

Codes of ethics publicly define the functions, rights and duties of journalists and thus provide journalists with guiding principles on how to best exercise their profession. The names of these codes vary: ethics standards, ethics charter, code of conduct, code of practice, code of ethics, etc. However, they all have similar purposes: safeguarding the autonomy of the profession and serving the public interest. “Code of ethics”, the most common term, is used here.

This chapter provides practical information about creating and using such a code. It explains why every code is essential and unique, how media professionals should be involved in its creation and operation, and how it should be promoted and revised.

## 1. Codes of ethics are essential for responsible journalism

### *Why are codes necessary?*

In democracies, journalists enjoy protected rights and privileges that ensure the freedom to establish diverse media outlets, to move in public to collect facts and views, to disseminate news, and to demand accountability. In turn, journalists must be responsible. They must operate with a clear conscience and transparent objectives.

There will inevitably be times when journalists test the limit of their freedoms in the name of defending the public good. If journalists work according to agreed ethical standards of behaviour — based on accuracy, fairness, independence and accountability — they are less likely to fall foul of the law. Indeed, codes of ethics ensure that press freedom prevails.

### *To which journalists do codes apply?*

Good journalism is in the interests of the public. It offers news that is accurate, fair and balanced, gives voice to the voiceless, and contains the diversity of views that a specific story demands. While free to be partisan, it must clearly distinguish between facts, comments and opinions — unlike “propaganda journalism”, disguised “missionary journalism” or tabloid journalism, which serve specific causes or interests. All good journalists should pay continual attention to codes of ethics.

### *Who benefits from a code of ethics?*

Everyone. For media owners and publishers, a code is protection against criticism and legal action; for journalists, it serves as a standard against





which their work can be judged; for the public, it guarantees that the information they receive is fair, accurate, and checked.

## 2. Codes of ethics are diverse

### ***Why are codes different from country to country?***

Firstly, traditions of journalism differ from one country to another. Secondly, some countries act or react more slowly than others to develop and amend their guidelines. Thirdly, and most importantly, there are different sensitivities within every society, based on the nature of democracy and on the social-cultural-ethnic-religious codes of conduct. These sensitivities are often reflected in the news content.

### ***Can different codes coexist in the same country?***

Yes. Newspapers, radio stations, television channels and Internet sites are as diverse and fluid as the content of journalism itself. Every news outlet can develop its own code of ethics according to its needs.

### ***Is it worth having a unified code in a country?***

Not necessarily. It may be appropriate to have one common code, or one for print and one for broadcast. A code widely approved nationwide may serve as the main source for various types of individual codes. International practice shows that what matters is the commitment of each news outlet to its own standards. Indeed, in rare cases a common code might even cause indifference or neglect.



### 3. The content of every code of ethics is unique

#### ***What makes a good code of ethics?***

It is written in clear language; it is comprehensive and compact; it is constantly supervised and regularly revised.

#### ***Is there a model code to be shared across the world?***

No. It might seem desirable, but putting it into effect would be very difficult. However, some guidelines are referred to more often than others — those created by international news agencies or quality newspapers such as the *Washington Post*, for example. News outlets are aware of, and influenced by, the variety of national, local and private codes. This promotes good standards.

#### ***What are the most common ethical principles?***

The question of privacy has become considerably more important in recent years, and codes' requirements on privacy intrusions have been made more severe. Self-regulation protects both freedom of expression and citizens from abuse of this freedom, and these two often come into conflict. A clear definition of what is the public interest is necessary. A code may define privacy and private places and the grounds on which people may complain about press intrusion into their private lives.

#### ***Should a code cover matters of taste and decency?***

Perceptions of taste and decency vary from one news outlet to another, as from one country to another, and are in a constant state of flux as societies change. Most quality newspapers have strict rules on taste and decency,

and all news outlets should try to define these concepts, updating them to reflect changes in public opinion. When sections of the audience find something in news and comments offensive, this generally undermines the credibility of the outlet. Newspapers need to look beyond their regular audiences in order to avoid inadvertently offending non-habitual readers.

***What should be the ethical guidelines when reporting terrorism?***

Acts of terror should be reported accurately and responsibly. Special care must be taken with the wording, which should avoid praise for violent acts and eliminate terms that contain emotional or value judgments. The term “terrorism” is interpreted in various, sometimes opposite ways. As the BBC lucidly puts it: “The word ‘terrorist’ itself can be a barrier rather than an aid to understanding. Journalists should try to avoid the term without attribution. They should let other people characterise while they report the facts.”

Detailed descriptions of what happened, avoiding terms such as “freedom warriors” or “terrorists”, raise credibility among the audience. The journalist’s goal remains the same as in reporting any story: to let readers make their own judgements.

***What should be the ethical guidelines in multicultural societies?***

Codes of ethics should include guidelines expressly related to minority issues. The example of the UK Press Complaints Commission shows what can be done. Its Editorial Code of Practice contains a special anti-discrimination clause: “The press must avoid prejudicial or pejorative reference to an individual’s race, colour, religion, sex, sexual orientation, or to any physical or mental illness or disability. Details of an individual’s race, colour, religion, sexual orientation, physical or mental illness or disability must be avoided unless these are genuinely relevant to the story.”

This means, for instance, that a journalist reporting a crime should not mention the racial or ethnic origins of a suspect except when the police have provided a description of a particular wanted individual (“white male”, for example, or “female with Asian features”). This principle is widely adhered to in the UK and the PCC has severely criticised newspapers that breached the code when publishing vicious attacks on immigrants.

#### **Fields covered by the BBC’s ethics guidelines**

1. Accuracy
2. Impartiality and diversity of opinion
3. Fairness, contributors and consent
4. Privacy and public interest
5. Crime and anti-social behaviour
6. Harm and offence
7. Children
8. Politics and public policy
9. War, terror and emergencies
10. Religion
11. Editorial integrity and independence
12. External relationships
13. Interacting with the audience
14. The law
15. Accountability

Source: [www.bbc.co.uk/guidelines/editorialguidelines](http://www.bbc.co.uk/guidelines/editorialguidelines)

## 4. Setting up a code of ethics: the role of media professionals

### ***Who should be responsible for drafting a code?***

Journalists. The quality of a newspaper is defined by certain components – accuracy, fairness, balance, honesty, and so on — that place responsibility for drafting a code of ethics in the hands of the professionals who contribute to its production.

### ***Should industry groups/media owners be consulted?***

Not necessarily. If media owners are active journalists in the news outlet, they should be consulted. In some rare cases, the code may be subject to the approval of the industry. But the ultimate responsibility should rest with the editors.

### ***How are journalists and editors persuaded to draft a code?***

Reporters and editors must place a premium on their own credibility. This gets more difficult as the public becomes more sophisticated and more accustomed to interacting with news organizations via the Internet and receiving prompt and reliable responses. In many societies the level of education and “news literacy” is increasing rapidly and the public is more aware of bias and distortion in the news. An applied code of ethics helps news organizations face these challenges and maintain an honest relationship with their readers. In the long run, a code of ethics becomes a powerful commercial asset and a competitive tool.

***How are publishers/media owners persuaded to respect the code?***

All the above arguments apply. In addition, respect for a visible code of ethics significantly reduces the risk of statutory intervention and expensive legal action. The alternative to a code is the courtroom.

***How are journalists persuaded to comply with the code?***

By awareness: Managers must ensure that ethical issues are regularly discussed by the staff – not just when a specific issue comes up. Standards can be taught internally by well respected, experienced editors. The more the issues are kept alive, the stronger the commitment.

By scrutiny: Many newspapers appoint an independent news ombudsman to scrutinize the content, both in response to readers' complaints and as an independent initiative. The ombudsman's assessments, based on the code of ethics, are published or broadcast. This keeps awareness of the code alive and creates an institutional culture in which journalists see ethical behaviour as the norm.

By stick and carrot: Committed news institutions should regularly and publicly award fine ethical behaviour and reprimand transgressions. Praise and critique are efficient tools for honing the quality of professional conduct.

***What if journalists do not agree to some rules of the code?***

Journalists must abide by the fundamental standards set by the institution they work for. By accepting employment they are understood to have approved its code of ethics, the compass that prevents deviation from agreed standards of good journalism.

Some news outlets include a formal undertaking to abide by the code in their contracts of employment. Others prefer a non-binding approach, coupled with a staunch commitment to ethics.

## 5. Setting up a code of ethics: the role of government and society

### ***What should the government's role in drafting and adopting a code be?***

The government should not be an active participant. Media professionals are solely responsible for developing a code of ethics. Official interference will jeopardize the independence of the project.

### ***What should society's role in the formulation of a code be?***

Advisory. Those drawing up the code should seek legal advice, refer to previous codes, and consult domestic and international literature. They should listen to the public and informed opinion. The views of other professionals — legislators, lawyers, academics — should be welcome. Non-governmental organizations, particularly those representing interests likely to pose ethical problems when covered in the news, will have views that command respect and should be consulted. It must be remembered, however, that these professionals and organisations have their own special interests, and their suggestions should be viewed with critical distance and great care.

Priority must be given to the views of journalists, who should safeguard their editorial independence in drawing up an ethical code for their profession as jealously as they would for any other publication.



## 6. Codes of ethics should be revised regularly and promoted

### ***Why should codes be revised?***

Societies change constantly. This affects the way news is collected, evaluated and disseminated. New dilemmas, research and considerations influence the way journalists work. For instance, it has recently been shown that the way suicides are reported can trigger individuals to mimic harmful behaviour. Journalists are under pressure not to encourage such copycat action, and should amend their code of ethics accordingly.

### ***When should codes be amended?***

The warning sign is when a code seems unable to respond to dilemmas arising during news production. When journalists agree there are flaws, shortcoming or sheer gaps in a code of ethics, it is time to revise it and make additions or changes.

### ***Who should be responsible for revisions?***

If it is the code of ethics of a journalism organization — a federation, association or union, for example — it could be a commission of professional journalists assigned by the organization. If it is the code of a media outlet, it could be a group of experienced journalists appointed by the chief editor, who might also be involved.

### ***How can all journalists be made aware that a code exists?***

If the code of ethics is issued by a journalism organization then it is that organization's duty to raise awareness by notices in publications and/or websites, discussions, conferences, radio and TV debates.

If the code is issued by a media outlet, its management should make the staff aware of the code by internal communications and discussions, making sure that the employees have continuous access to it, and encouraging them to refer to it whenever necessary.

Ethical issues should be covered in universities through professional training courses.

***Should the public also be made aware of the code?***

The public, as readers, listeners, viewers and Internet users, must be made aware that news outlets have codes of ethics – and that they implement them. It is vital to maintaining credibility, accessibility and trust.

Codes should be publicised by news and comments in the news outlets themselves. They should be available on the outlets' Internet websites. Violations of the codes and adjudications should be reported as soon as possible. Reports by an ombudsman, if the outlet has one, should refer to the code whenever it is appropriate.

## Chapter 3

# Self-regulatory bodies

Ensuring respect for a code of ethics

*By William Gore*

Developing a code of ethics is only the first step towards effective media self-regulation. It is crucial to establish a body to supervise it and provide sanctions against those who break its rules.

These bodies may have various forms. The main types are ombudsmen and self-regulatory press councils, which are described in later chapters.

This chapter compares the strength of self-regulatory bodies with court procedures; assesses the power of moral sanctions; examines how far self-regulatory bodies can fit all types of media; and explores aspects of complaint-handling such as time limits, awareness of the right to complain, and being proactive.

## 1. A credible alternative to court procedures

### ***Why is a self-regulatory body worthwhile?***

Self-regulatory bodies determine the boundaries between the legitimate rights of a free press and the legitimate rights of people who attract media attention. They generally do this by examining complaints against an agreed code of ethics and judging whether its rules have been broken. Thus they provide guidance for journalists and the public on what practices are acceptable and the standards expected of news outlets. By dealing with complaints professional standards can be raised.

### ***Why establish a body to handle complaints when courts already provide this service?***

While courts must have a role in upholding the law, in a democracy the press should be free from excessive political and judicial interference. It is better that the press agrees to regulate itself or delegates regulation to an independent body. Readers have more trust in newspapers that are willing to take responsibility for their actions.

There are also practical benefits. The cost to complainants, for instance, should be lower than when lawyers are involved; the time taken to deal with complaints should be shorter; changes to regulations should be made more quickly; and the process should be less confrontational than when matters are conducted across a courtroom.

### ***Can complaints be lodged with the courts and a self-regulatory body at the same time?***

Preferably not. Self-regulatory bodies work best when both sides in a dispute are brought together through mediation and cases are resolved



through corrections, apologies and so on. This is harder to achieve if legal action is taking place at the same time. Media outlets may be less willing to co-operate with a self-regulatory body if they fear their attempts to resolve complaints amicably will be used against them in court.

## 2. Moral redress is powerful

### ***What kinds of sanctions should be used by a self-regulatory body?***

The major sanction is the “critical adjudication” which the offending media outlet is obliged, by voluntarily joining the system, to publish. This forces editors to admit to staff, peers and readers that they have made poor judgements and have failed to uphold standards they agreed to follow.

### ***Are moral sanctions efficient?***

The UK Press Complaints Commission has found that a large majority of complaints are resolved amicably. This is because editors avoid having complaints upheld against them whenever they can – a sign of how effective the threat of a critical adjudication can be. The power of moral sanctions should not be underestimated.

### ***Would fining newspapers not be a better punishment?***

Voluntary regulation is most effective when sanctions do not include financial penalties. Any system involving fines becomes more legalistic and confrontational, with lawyers arguing over the size of penalties to be levied. This dilutes all that makes self-regulatory bodies practical and useful.

There is evidence that financial penalties are not an effective punishment for newspapers because the increased sales from an intrusive story can outweigh the subsequent fine. Moreover, the impact of fines will vary widely and unfairly, depending on the wealth of the newspaper involved.

In any case, a self-regulatory body would have grave difficulty introducing fines or compensation unless it had a statutory basis – and that, of course, would conflict with the notion of the system being self-regulatory.

***Should a self-regulatory body have the power to award compensation?***

Monetary compensation is not generally awarded to successful complainants for the same reasons that fines are not generally imposed.

***Should self-regulatory bodies have the power to suspend journalists or newspapers?***

There are grave potential problems with this. Firstly, preventing the flow of information from the media to the public offends against the general principle of press freedom. Suspending publication punishes the public just as much as the newspaper. Secondly, it may seem unfair to punish specific journalists in a system based on editors taking responsibility for what is published.

***Should the right of reply be guaranteed by law?***

This is unnecessary and impractical. It is inappropriate for judges to determine when such a right should be granted. It is far better for a self-regulatory body to decide.

***Should a self-regulatory body ensure an automatic right of reply?***

The UK's Press Complaints Commission does not believe that individuals should have an automatic right to reply to claims about them. Instead, it says that a fair opportunity to reply to inaccuracies must be given "when reasonably called for". Some other self-regulatory bodies say an opportunity to reply to criticisms should be provided whenever an individual or

organization has been singled out. However, there is a danger that this can stifle the freedom of the press to scrutinize and be critical, which is why the “right to reply” question is a sensitive one.

### **The right of reply defined by the UK Press Complaints Commission**

Clause 1 (Accuracy) of the PCC’s Code of Practice says that “the press must take care not to publish inaccurate, misleading or distorted information” before adding that “a significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence...”

Clause 2 (Opportunity to reply) of the code states: “A fair opportunity for reply to inaccuracies must be given when reasonably called for.” It is for the PCC to decide when a request for the chance to reply is “reasonable”.

### ***Should complainants be able to appeal against a self-regulatory body’s decisions?***

There should be some mechanism for complainants to appeal if new evidence becomes available or if they have evidence that their complaint has been misunderstood. Appeals may also be allowed on the grounds that the body has failed to follow its own procedures properly. In the UK, claims that the Press Complaints Commission has mishandled complaints can be made to an ombudsman, the Charter Commissioner, who is appointed by the PCC but acts independently of it. The commissioner can only examine complaints about procedure, not substance.

In the UK, decisions made by “public authorities” can be challenged in the courts using a procedure called “judicial review”. It has never been formally established whether the UK Press Complaints Commission is a “public





authority”, but the PCC has not challenged the possibility that its decisions are, in theory, open to such a review. In the 15 years of its existence only three cases have been reviewed by the courts. On each occasion, the judge concluded that the PCC was the appropriate body to make decisions about whether the newspaper industry’s Code of Practice had been breached, and ruled that the PCC had followed its procedures properly. As a result, the judges did not review the substance of the commission’s decisions.

Whether similar procedures are available in other countries depends upon the status of the self-regulatory body and the nature of a country’s legal structures.

### 3. Time limits on complaints are necessary

#### ***Should there be a time limit on complaints?***

Most self-regulatory bodies impose a deadline within which complaints must be lodged. This ranges from around a month to more than six months from publication or the end of any effective correspondence between complainant and editor (provided that the complaint has been made promptly following publication).

#### ***Why are time limits imposed?***

Complaints are investigated most effectively while circumstances remain fresh in the minds of those involved and while the subject matter of the article or broadcast remains relevant. Supporting evidence – such as reporters' notes – is less likely to be available when it relates to something that happened a long time before a complaint is lodged. Furthermore, the self-regulatory body's remedies – apologies, corrections or critical adjudications, for instance – are more meaningful when they appear promptly.

#### ***Do time limits apply when articles are downloaded?***

Some self-regulatory bodies regard downloading an article as a fresh publication. Therefore, material that is freely available on a newspaper's website can generally be complained about, even if the piece was not originally published within the relevant time limit.



## 4. All media can be regulated by self-regulatory bodies

### *Which type of media is self-regulation good for?*

Self-regulatory bodies can appropriately be used to oversee all types of media. They may be best suited to dealing with editorial matters, however, rather than the type of technical issues that can arise in relation to broadcasting. Broadcast media may require more specific regulations because they are licensed in a way that print media is not. Indeed, the licensing process requires particular oversight.

### *What is the challenge of the Internet for media self-regulation?*

Internet regulation can be particularly difficult because the online world is truly global. Because websites can be hosted in countries far away from their target audience, problems arise over the reach of whichever regulatory organisation has been given the task of administering supervisory codes.

As a result, regulation of the Internet is most appropriately achieved through regulation of specific fields. For instance, self-regulatory bodies that in the past have supervised the print media may now also regulate websites operated by newspapers and magazines – even if the online versions differ from the “hard” editions. Such sites may contain audio-visual material that the self-regulatory body might not traditionally have dealt with, and it must decide whether to take complaints about such material just as it would about an article or still picture published in a newspaper or magazine.

Self-regulatory mechanisms can be extremely well-suited to dealing with fast-moving technological advances because they tend to be inherently more flexible than statutory tools.

***Can self-regulatory bodies oversee user-generated content on the Internet?***

User-generated material is not specific to media websites. It also appears in newspapers, on traditional TV and in radio broadcasts. In all cases, self-regulatory bodies can adapt to deal with such material. The key is to ensure that cases are treated on their merits and that special attention is paid to the degree of editorial oversight of the material. User-generated video footage uploaded to a newspaper website, for instance, will have been the subject of an editorial decision to publish the material. By contrast, a reader's comment that is sent automatically to a message board might not have gone through such a process. As a result, different types of material may be open to different levels of regulation. However, avoiding editorial oversight should not be an excuse for avoiding editorial responsibility.



## 5. The major challenge: ensuring the public know they can complain

### *Should the public know about its right to complain?*

This is crucial. No self-regulatory body can be effective unless people are aware of their right to complain about what they read in newspapers, see on television or hear on the radio.

In some countries, levels of awareness among the public are very high. This is particularly so in places such as Norway and Sweden where press councils and complaints commissions have existed for a long time. However, in some other countries much more needs to be done to ensure that the public knows how to express its concerns about the media. Self-regulatory bodies with greater resources – such as the Press Complaints Commission in the UK – are, of course, able to ensure wider awareness than bodies with smaller budgets and staffs.

### *How can awareness be raised about the right to complain?*

The best way is for media outlets themselves to publish information telling readers how to complain. To some media outlets this may be anathema – which newspaper or broadcaster wants to attract complaints? However, the importance of media responsibility has already been highlighted and this is just one part of fulfilling that responsibility.

There are other measures. Advertising campaigns are effective, although costly. Open days, when the public is invited to meet members of the regulatory body, can attract a high profile but may require considerable resources. Perhaps the most straightforward method is to release regular – and hopefully newsworthy – information about the self-regulator's activities to as many interested parties as possible. Media coverage of those activities will do more to raise awareness than anything else.

***Can a self-regulatory body be proactive and initiate investigations even if no complaint has been made?***

Many self-regulatory bodies are able to initiate complaints of their own, but the frequency with which they actually do so varies considerably.

It may be dangerous to launch an investigation if those at the centre of an article or broadcast have not made a complaint themselves. People have an absolute right not to complain, for whatever reason. Self-regulatory bodies may breach an individual's privacy under human rights legislation if they initiate investigations without consent.

Moreover, it is often impossible for anybody but those concerned to know how an apparently offensive article or broadcast has come about: it may have been with the full co-operation of the apparently injured party. A self-regulatory body concentrating on mediation cannot know what the individuals involved would consider a suitable resolution unless they have complained. Those seeking to adjudicate would find it difficult to obtain a full picture of the situation without the view of one of the central actors.

## Chapter 4

# The press council

The archetype of a self-regulatory body

*By Ognian Zlatev*

“Press council” is the most common form for a self-regulatory body. Mainly composed of media professionals, these councils are independent of political power. Their main task is to deal with complaints about the work of the media, through collective decision-making. By doing this, they offer guarantees to the public about the quality of information it receives, demonstrate that media professionals are responsible, and show that extended state regulation of the media is not needed.

Each established press council is unique, the result of its country’s particular history and media environment. The challenge of this chapter is to look beyond national particularities to provide information for media professionals trying to create, handle or transform such a body.

## 1. The basic functioning of a press council

### ***What is a press council good for?***

A press council is essentially good for building trust and credibility in the media; for improving quality standards in media outlets; for preventing interference from the state and the authorities; and for diminishing the number of court cases against journalists.

### ***What are the basic duties of a press council?***

The main duties of a press council are:

- To accept complaints;
- To verify that they fall within the remit of the code of ethics;
- To review them thoroughly from each angle;
- To serve as mediator between the complainant and the media;
- To take decisions on complaints based on rules and regulations with fairness;
- To single out the media for breaching ethics guidelines;
- To secure transparency and publicity of all decisions taken;
- To analyse and comment on media trends and provide guidance about the code's requirements;
- To suggest amendments to the code of ethics (if mandated to do so);
- To set journalistic professional standards;
- To defend press freedom.

### ***What are the benefits of a press council compared to other self-regulation mechanisms?***

Press councils, as collective bodies, enjoy the highest possible representation and, therefore, broader credibility. They are the most





interactive form of self-regulation because they allow examination of all points of view.

***What is crucial for a working press council?***

It should include representatives of all stakeholders — journalists, editors, media owners and members of the public. All should be publicly acceptable and dedicated to building trust in the concept of self-regulation. The council should establish its own working rules and procedures.

## 2. Press councils in the OSCE area

*January 2008 (based on available data)*

### **Where do press councils already exist?**

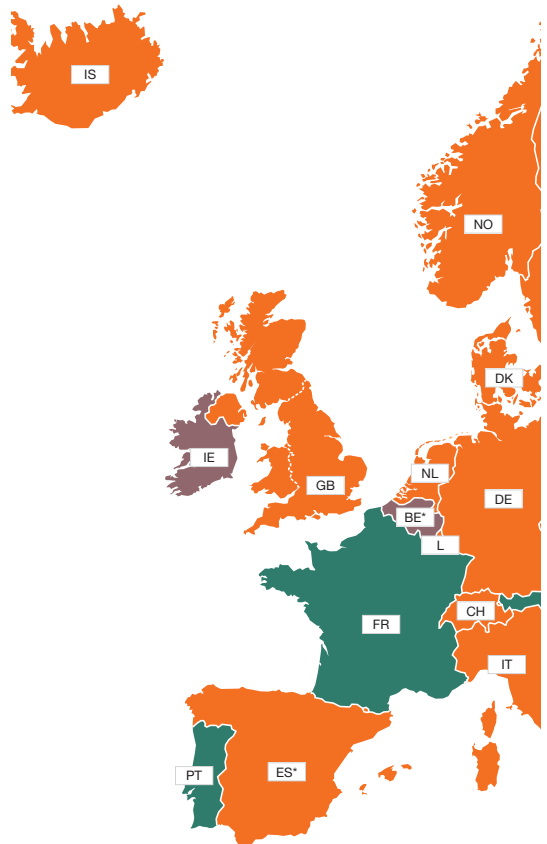
Some countries have long established press councils: Germany, the Netherlands and the Scandinavian countries, for example. Others, like Belgium, have established them quite recently. Recent democratic changes in countries such as Bosnia and Herzegovina, Bulgaria, Georgia and Armenia have led to an explosion of independent media which created the need for media self-regulation. Nevertheless, there are places where press councils do not exist or have ceased functioning, for instance in Austria, France or Portugal.

**USA** **CAN\***

**Countries with  
established press council**

**Countries with new  
press council (after 2000)**

**Countries without press council**





\* Regional press councils (in Catalonia in Spain, and in the Flemish Region in Belgium)

### ***Why do some countries not have a press council?***

The main reasons why press councils do not exist are:

- Political: countries, for instance, where governments strive to censor the media;
- Economic: countries where the media are used solely to make money or maintain the interests of business and political elites, or where the media market is too small;
- Legal: countries where there are press and electronic media laws dealing with issues of ethics and accuracy;
- Cultural: countries where media professionals oppose self-regulation.

### ***Why would some media professionals oppose a press council?***

Self-regulation has been a slow and open-ended process even in consolidated democracies and some journalists believe that it threatens media freedom. Journalism standards are strongly debated around the globe. Some theorists argue for objectivity, through fairness, internal pluralism and neutrality when covering political and moral issues.

Others view the pursuit of objective journalism as a “mission impossible” and, therefore, reject the idea of press councils.

### ***Where can I find information about established press councils?***

Two websites provide a lot of information:

- [www.media-accountability.org](http://www.media-accountability.org)
- [www.wanewscouncil.org](http://www.wanewscouncil.org)

Representatives of established press councils can be contacted through their websites or by attending annual meetings of the Alliance of Independent Press Councils in Europe (AIPCE).

### 3. Questions to ask before setting up a press council

#### ***Is there a “one-fits-all” model for a press council?***

It may be possible, by examining existing press councils, to construct a model of the general framework and structure as far as “traditional” media (radio, television and print media) are concerned, but, beyond that, each press council has to take into account country specifics such as legislation, culture, media traditions and the maturity of the democracy.

#### ***Is a press council suitable to all kinds of media?***

Theoretically, yes. In reality, it depends on the national specifics and on the stage of media development.

Most press councils around the world were established mainly to self-regulate print media, as broadcasting is often statutory-regulated by acts, directives and other legislation. However, recent developments in countries where newspapers have invested significantly in the electronic media have led to the introduction of regulations to cover cross-media ownership between television and newspapers.

#### ***Does the establishment of a press council require new legislation?***

No. In most countries, a press council is set up and its members are elected among major stakeholders regardless of specific legislation. There are some rare places with statutory press councils, such as Denmark, where the government established the Danish Press Council after a self-regulatory body collapsed in 1992 because of economic disputes between journalists and media owners and a lack of support from most media outlets.

***What are the dangers of a statutory press council?***

The independence of such a press council is questionable. It is especially at risk in countries in transition where democratic processes are still fragile. There may still be political influence on the media and a high level of self-censorship by media professionals as former patterns of political behaviour survive. Statutory press councils should be avoided.

***Does establishing a press council require the adoption of a new code of ethics?***

Not necessarily. Most codes of ethics incorporate the press council as the mechanism for their implementation. If a code does not provide for the establishment of a press council, it should be amended.

In some countries, adoption of a new code has been the first step towards the creation of a press council, generating a consensus before its foundation.

## 4. Press council structure and rules

### *How do you choose the most suitable structure for local conditions?*

There is no universal solution. It depends, among other things, on democratic traditions, culture, media development, the stage of press freedom, and the geography, administration and local government of the country. Language differences can play a part in some places.

If the country is large, with many administrative districts, relatively autonomous local governments and significant differences in the regional market, regional structures may be the answer. However, these will only serve regional media outlets and cannot exclude the existence of a national structure. Regional press councils might find it more difficult to be independent, for subjective and financial reasons. The smaller the regions, the greater the possibility of conflicts of interest.

In most cases, the more central, independent, strong and respected a press council is, the better. Regional press councils should not be established without a detailed analysis of the effect of self-regulation on the media.

### **The creation of the Bulgarian Press Council**

Debate about media self-regulation in Bulgaria increased with the explosion of independent media in the early 1990s. As in most new democracies, it was initially discussed among a small circle of academics, theoreticians and media organisations, among them the Union of Journalists.

No less than seven versions of a code of ethics for Bulgarian media were created between 1990 and 2002, but no mechanisms were

created to put any of them into effect. It was only after the active involvement of media owners that practical steps were taken and tangible results achieved. International assistance, in the shape of an EU/PHARE-funded project, was instrumental but the real work, strategy, discussions and ideas came from all sides involved locally.

On 25 November 2004 the Code of Ethics of the Bulgarian media was signed by representatives of most Bulgarian media in the presence of the President of the Republic, Prime Minister and Speaker of the Parliament. It took another eight months before the incorporation of the implementing body of this code – The National Council for Journalism Ethics ([www.mediaethics-bg.org](http://www.mediaethics-bg.org)) — which is now fully operational.

### ***How are press council rules decided and adopted?***

In general, rules are discussed and adopted after discussions among all stakeholders (journalists, editors, media owners, media consumers, and the public). Much depends on the legal framework in each country. In some places, such as the UK, rules were developed by the media industry itself. Countries in transition or in the initial stages of developing media self-regulation have sought assistance from the international community.

### ***How is a press council usually structured?***

Normally there is a basic foundation composed of board members who are responsible for running the organization and managing its finances. Under the supervision of this foundation, one or more commissions are established to receive and handle complaints about the work of the media. These commissions are also composed of board members, who may be different from those of the foundation.



***Is the structure the same when it deals with both print and broadcast/electronic media?***

The main role of a press council is to handle complaints about breaches of the code of ethics. In most cases, a press council is structured identically when it deals with different media for the simple reason that most complaints are similar for both print and broadcast media.

**The press council in Bulgaria**



The National Council for Journalism Ethics has a board of seven members, representing the founding organizations: the Union of Publishers in Bulgaria (2), the Association of Bulgarian Broadcasters (2), the Union of Bulgarian Journalists (1), the Media Development Centre (1) and the Bulgarian Media Coalition (1).

Each ethics commission has 12 members elected in three quotas of four members each – one quota of journalists, one of employers (publishers/owners) and one of independent civil society representatives/public figures. Representatives of journalists and employers are elected at their respective general assemblies (for example, the Union of Bulgarian Journalists and the Union of Publishers). Members of the independent quota are agreed among journalists and media owners.

Source: [www.mediaethics-bg.org](http://www.mediaethics-bg.org)

## 5. Members and board members of a press council

### ***Who should be members of a press council?***

It should be made up predominantly of journalists, media owners and publishers. The membership is usually completed through professional associations.

### ***Should all media outlets be involved?***

If many media outlets refuse to adhere to a code of ethics and a press council, it will block the whole concept of self-regulation and provide the state with an excuse to intervene. It will damage the image of the media as a modern business implementing high professional standards. In the longer term, this could harm the credibility and quality of information provided by the media.

### ***Should publishers be members of the press council?***

Publishers are an indispensable part of media self-regulation even if they do not have an editorial role. Through financing and publishing, they have an indirect role in defining standards. Their absence could demotivate journalists and reduce their compliance with those standards. The need for publishers to be members of the press council should be promoted as a corporate social responsibility of the media as a business.

Press councils have been established without the publishers' or media owners' support in some countries, including Switzerland. However, experience shows that press councils with an active involvement of publishers and media owners enjoy higher professional and public respect.

***Should the “yellow press”, which tends to disregard codes of ethics, be involved?***

If such media have signed the code of ethics, they should be equally involved with all respective duties and responsibilities. If they have not signed, they should not be a threat to the press council. Most press councils do not distinguish between mainstream media and the “yellow” press, but rather between professional and unprofessional media.

**Members of the press council in the Netherlands**

The Netherlands Press Council ([www.rvdj.nl](http://www.rvdj.nl)) is established and maintained by a foundation called Stichting Raad voor de Journalistiek. All important media organizations participate:

- The Netherlands Union of Journalists (Nederlandse Vereniging van Journalisten);
- The Netherlands Society of Chief-Editors (Nederlands Genootschap van Hoofdredacteuren);
- The Netherlands national news agency (Algemeen Nederlands Persbureau);
- Several co-ordinating organizations of printed press;
- Co-ordinating organizations of public and commercial broadcasting;
- The Internet organization Planet Internet.

***Who should serve as a board member?***

Different practices exist. In most cases, press councils include representatives of main professional groupings and distinguished members of the public. Public officials may be represented, depending on the country and the officials' personal qualities, but their participation should be limited and defined in agreement with all other stakeholders.

Representatives of the public play an important role in 80 per cent of press councils. This provides significant benefits as it gives the body greater credibility, secures its transparency and accountability, represents independent and unbiased viewpoints, and serves as a voice of media consumers, especially in countries without media consumers' associations.

***How should board members be appointed?***

Board members should be nominated through a democratic procedure. Usually this is done by nominations and voting by the professional community and media outlets that have signed the code of ethics and accepted the future press council. Another possibility, chosen by the UK, is to have members nominated by an independent nominating committee.

***What are the duties of these board members?***

Practices vary but primarily board members check that the press council complies with its mission and operates in line with its main principles. They also have to approve the rules and regulations about handling complaints. In some cases, they provide guidance in solving more complicated cases. They contribute generally to raising awareness and promoting the concept of self-regulation.

***Do board members work full time?***

No, they serve in their spare time. Board meetings vary in frequency depending on individual rules of proceedings. In Bulgaria the board, whose mandate is to tackle more strategic issues, meets on average three times a year.

***Does a press council need administrative staff to work on a day-to-day basis?***

This secures smooth operation of the process of complaints evaluation – handling daily inquiries, conducting pre-selection, compiling additional information, preparing board meetings, arranging external experts' intervention when necessary, and organising publicity of press council decisions and resolutions.

## 6. Members responsible for handling complaints

### *How many members should be responsible for handling complaints?*

This depends on how many media outlets are involved in self-regulation and on national circumstances. The number should be large enough for different views to be heard, which helps to preserve the council's objectivity and build trust in the idea of self-regulation, but not so large that it cannot reach a common conclusion. The number should be uneven in order to avoid tied votes. An optimum number could be between 7 and 11 members.

### *Should these members have a judicial background?*

Certainly not. The code of ethics is not an official legal document and the council does not make juridical decisions. Members need personal and professional moral integrity rather than any law-related knowledge. Unlike court decisions that combine justice with punishment, press council decisions are corrective, upholding journalistic standards and defending society's right to receive objective information. These decisions do not prevent a possible court case on behalf of the complaining side.

## 7. Financing a press council

### ***How should a press council be funded?***

The best way to finance a press council is a system that secures its independence. Ideally, there should be a diversity of sources of funding, with the largest contribution being made by the media industry, as in the Netherlands or Sweden, or shared equally by owners and journalists, as in Norway. However, in some countries, such as Switzerland, funding is provided only by journalists. In countries in transition or in the early stages of developing self-regulation, a major role should be played by international donors.

### ***What is the role of the state in financing a press council?***

In some countries — Luxembourg and Cyprus, for example — financial involvement by the state is accepted as public media are also subject to the code of ethics. Such involvement should be controlled by strong mechanisms to prevent state interference in the press council's work.

### ***If a press council is mainly financed by the media industry, how can the body be impartial?***

This should be guaranteed by clear procedures and transparent mechanisms. The process of funding and the process of deciding upon complaints must be kept apart.

### ***What kind of mechanisms can be developed?***

Funding can be based on membership fees or the nature of media outlets, taking into account circulation and business size. A transparent register

should be kept of additional donations and all media outlets involved in the self-regulatory body should have secure access to it. Annual reports of the press council should contain a financial statement showing the financial contributions of each media outlet.

Most members of decision-making committees should be people without media connections, and the council's rules should make it clear that decisions must in no way be connected with funding or donations from a media outlet.

### ***How can press council finances be secured?***

Firstly, by the annual contributions of all media that have agreed to abide by the code of ethics and respect press council decisions. Financial security can also be ensured by encouraging the press council to engage in such activities as annual publications, the development of projects and data bases, and the organization of fundraising campaigns for specific issues. Clear account must be kept of the sources of funding.

An example of good practice is the Bulgarian "Choose Bulgarian Product" promotional campaign, in which each media outlet taking part agreed to donate a percentage of its income to the press council.



**Ten things to agree on before setting up a press council**

1. Gather all media outlets
2. Get the agreement of editors
3. Get the agreement of publishers
4. Get the support of government and the public
5. Draft common ethics guidelines and agree on them
6. Identify costs and possible funding
7. Discuss and establish the structure of the body (staff, which media)
8. Decide on the power of the body (proactive, how to decide on complaints)
9. Raise awareness about the code of ethics in the media and through journalists' training
10. Cooperate with other similar bodies and share experience

## 8. Developing press councils in new democracies

### ***What are the main challenges to the creation of press councils in new democracies?***

The main challenges are:

- Lack of a tradition of and experience with self-regulation;
- Political cleavages that divide journalism communities: the resulting lack of dialogue and solidarity among the various factions prevents journalists from jointly defending their common interests;
- The small size of media markets and general underdevelopment of national economies: only a few newspapers and broadcasters can survive, the rest having to ally with political forces to get financial support;
- Persisting political pressure on media, especially public service media, to be loyal to those in power and avoid critical journalism;
- Close co-operation and mutual dependence among political elites and business groups with a vested interest in the media industries, exposing journalists to both political and economic dependence.

### ***Can press councils be created in countries where political forces oppose self-regulation?***

This is a typical problem in countries in transition. Press councils can be created with the active involvement of the international community. To secure the success of a new self-regulatory body, the issue should be incorporated in the international political relations agenda of the country.

***How can a press council operate if most media outlets are under government supervision?***

In countries with long democratic traditions, the type of ownership of media outlets has no influence on media self-regulation. But establishing an independent and efficient press council in countries with a totalitarian government, where the majority of the media outlets are state-owned, is extremely difficult. Nevertheless, press councils of a kind do exist even in some African states where freedom of expression is still of international concern.

Throughout the world, state governing structures include ministries of information and communication that play a significant and sometimes quite controversial role in media ethics and self-regulation. It is absolutely necessary in these countries to engage with governments to convince them of the benefits of the media regulating itself.

***How can newspapers avoid pressure from advertisers, on whose good will many depend for survival?***

This is achieved by creating an organizational structure that clearly divides the responsibilities of news and advertising departments. Codes of practice should include rules for avoiding conflicts of interests, stating that journalists should not be influenced by commercial considerations, including the interests of advertisers, when preparing articles. Media outlets should establish rules about accepting gifts from companies or payment of costs for the preparation of material, including travel and samples.

Advertisers' pressure is also avoided by encouraging competition in the media, transparency in ownership, independent monitoring of public trust in media outlets, and publishing annual corporate and financial reports. Discussions between representatives of advertisers and advertising agencies and journalists'/editors' associations should be encouraged.

***How can media professionals' political differences be overcome to create a single self-regulatory body?***

Press councils are professional rather than political bodies, and the professional qualities of media representatives should prevail. Sound procedures for avoiding conflicts of interests should be established to secure political impartiality. Such procedures might include a rule that members of decision-making bodies of political parties cannot be board members of a press council, and a requirement that members sign a declaration to avoid conflict of interests.

***What can be done if the body does not receive enough complaints?***

First of all, the press council should investigate why this is happening. It is usually because there is not enough information and publicity about the council. It may be that the complaints procedure is too complicated or that there is a lack of trust in the council members. Appropriate measures should be taken based on the reasons identified.

The number of complaints made varies widely from country to country. The average number in the UK is 3,500, of which only 300 are ruled upon; in Germany the average is 400; in the Netherlands only 80.

## Chapter 5

# The ombudsman

## Media self-regulation within a news outlet

*By Véronique Maurus*

Unlike press councils, most ombudsmen work only for a specific media outlet. They liaise between the news outlet's staff and its users (readers, viewers or listeners), receive their comments and complaints, and try to resolve disagreements between the two sides.

This chapter analyses the functions of an ombudsman, provides guidelines on how to create such a position, and explores the challenges of the job.

## 1. The evolution of the ombudsman

### *How did self-regulation within a news outlet begin?*

Originally, the most common form was a simple complaints department. At the *New York World* in 1913, a staff member noted the grievances of disgruntled readers and passed them on to the editorial staff. This model was adopted in the 1920s by the *Detroit News* in Michigan and, in a more organized way, by the *Asahi Shimbun* in Tokyo, where a committee investigated complaints and communicated them to the editor-in-chief.

“Ombudsman”, the Swedish word for “representative”, has been widely adopted by other languages as the name for a mediator (of either sex) who investigates citizens’ complaints. It was first applied to the press by the daily *Courier-Journal* in Louisville, Kentucky, which, in 1967, commissioned a former head of local information to handle relations between readers and journalists. The next step was taken in 1970 by the *Washington Post*, which appointed a deputy managing editor to listen to readers’ complaints, write internal memos and publish a column in which he was able to freely express his opinions. Gradually the system improved, becoming more and more interactive as comments, criticisms, observations and corrections were processed, passed on and returned to readers.

The example was followed elsewhere in the world. However, even today only two per cent of the daily newspapers in the United States have ombudsmen, and they are even rarer in other countries.



### **The creation of an ombudsman at *Le Monde***

*Le Monde* has always tried to maintain close contact with its readers. In the 1960s, the director, assisted by a deputy, replied to letters himself by publishing extracts and ensuring that all identified errors were rectified.

In 1994, following a serious crisis of confidence and loss of readership, an ombudsman was appointed to head the readers' letters department and renew dialogue between readers and editors. It worked, despite the fact that after some years, relations between management and the ombudsman became strained.

The ombudsman is totally independent of the editor-in-chief and answerable only to the managing director, who decides on the appointment. The ombudsman cannot impose sanctions, but expresses opinions in a weekly column, being free to choose the topic to be discussed. The column cannot be edited, cut or modified by others without the ombudsman's permission.

An internal charter or style manual was published in 2002. This 212-page "bible", revised in 2004, contains practical rules (spelling, acronyms, proper names, etc.) and a code of conduct for editorial staff. The ombudsman ensures that the charter is upheld, monitors its relevance and development, and makes certain that corrections are published.

### ***Do ombudsmen exist only in the print media?***

No. In France, for example, public radio and television stations have played an innovative role. France 2, France 3 and Radio France Internationale have had ombudsmen since 1998, shortly after *Le Monde* and before many other

newspapers like *La Dépêche du Midi* (2001), *Midi Libre* (2004), *Sud-Ouest* (2006) and *l'Express* (2006).

***Where can more information about ombudsmen be found?***

The Organization of News Ombudsmen (ONO) is an international association with 60 members. The majority of its members come from the United States (35 registered publications), followed a long way behind by the United Kingdom and the Netherlands (three each) and Sweden and Turkey (two). France is represented by one daily newspaper, *Le Monde*, and two public television stations, France 2 and France 3. Other countries with just one print media representative include Brazil, Canada, Denmark, Israel, Spain, Portugal and Japan.

Ombudsmen can be contacted through journalists' unions or by getting in touch with media that have an ombudsman: a list of these can be obtained from the ONO ([www.newsombudsmen.org](http://www.newsombudsmen.org)).





## 2. The ombudsman's work

### ***What functions does the ombudsman have?***

The ombudsman promotes dialogue between those who read, listen, and watch a news outlet and those who work for it. The idea is to offer a contact for the users and, by encouraging self-criticism, to enhance the credibility of the news outlet, especially if its image is not particularly good.

### ***What is the ombudsman's main role?***

The ombudsman ensures respect for the rules and customs established by the media outlet, providing a sort of internal quality control. There is an implicit contract with the audience to:

- Provide information as precisely, fully and clearly as possible;
- Make a clear distinction between information and commentary;
- Rectify errors;
- Reflect the plurality and diversity of opinions;
- Ensure that individuals' rights are not violated and that their privacy is respected.

### ***Is the role of the ombudsman the same in every news outlet?***

It varies considerably from one news outlet to the next. Some ombudsmen rub shoulders with the journalists, others remain apart and have nothing to do with the daily publication. Some merely summarize letters that have been received; some write notes or internal memos; some publish corrections themselves or have a blog on the Internet, responding to readers' comments in real time. Others answer practical and legal questions posed by readers, though this may be stretching the limits of their function. Finally, there

are some who act as a spokesperson and public relations agent for the management.

***What is the everyday nature of the ombudsman's work?***

The ombudsman collects criticisms and suggestions from media users as well as explanations from the editorial board, management or administration, and attempts to reconcile the two. Besides acting as a mediator, the ombudsman also considers how the news outlet operates and points out deviations from the implicit contract with the readership. For print media, all these aspects are made public in a regular column.

***Does the ombudsman communicate directly with readers, listeners and viewers?***

Yes, of course. They are the main source of the ombudsman's information and legitimacy. Most communication is by direct correspondence. This is not very difficult, particularly now that we have e mail, provided that the ombudsman has a well organized system for managing correspondence. It is important, for example, to have good files and a certain amount of experience in identifying (or avoiding) lobbies, sects, manipulators or compulsive writers (and there are some!).

At *Le Monde*, mail is classified into four categories corresponding to the main preoccupations of the readership:

- Comments on the news in general;
- Notification of errors (our readership includes a good number of nit-picking experts who don't miss anything and take particular pleasure in finding mistakes);
- Comments on our treatment of the news;
- Reports on facts that they have witnessed or been involved in.



It is also possible to run a blog on the Internet, but this requires constant monitoring and, hence, additional staff.

***Does the correspondence reflect problems with the media outlet?***

Correspondence makes it possible to rapidly identify general trends and, above all, deviations. Most writers are unhappy but it is not always the same ones. When a pile of letters suddenly arrives commenting on the same problem or feeling, it is important for the media outlet to be aware of it so that it can make the necessary adjustment. The post of ombudsman is thus a hearing post for media users.

### 3. The ombudsman's sanctions

#### *How does the ombudsman make decisions?*

When criticism arrives (by letter, e-mail, telephone call, etc.), the ombudsman first decides whether it is justified – it is not uncommon for media users to exaggerate or make mistakes. Ombudsmen will have their own code of ethics but ideally will judge complaints against an established internal code of conduct. If one does not exist, they can suggest that it be created. Reference will also be made to professional codes of conduct.

#### *What sanctioning measures can be taken?*

Publication — of extracts from letters, corrections and above all the ombudsman's column, which publicises omissions and errors — is a very powerful measure. Moral sanctions of varying severity can be imposed. An ombudsman can:

- Forward correspondence and ask the author of the article to reply (minimum “punishment”);
- Demand in addition that the newspaper publish a correction (normal);
- Publish an extract from the critical correspondence as a reader's letter (severe);
- Discuss the error in the ombudsman's column (extreme): this should be reserved for the most serious cases, as journalists regard it as a public denunciation and dishonour.

#### *How do ombudsmen choose the most appropriate sanction?*

If they want to be effective and maintain good contact with the staff, ombudsmen should not impose sanctions in all cases and should avoid taking action that seriously upsets journalists or injures their reputation. They



must be judicious and avoid injustice or excess. Often there is no point in naming names as the people concerned – and their colleagues – already know who they are.

It is more important and constructive to understand why errors are made. It is often possible to uncover underlying causes of a more general nature. There may be, for example, times when a copy is circulated poorly because of production pressures or staffing problems, so that some articles are not proofread properly or at all. In such cases, the ombudsman can tactfully suggest a remedy, making sure not to trespass on the responsibilities of others in the hierarchy. Ombudsmen are not judges or police officers. Ideally, they are the conscience of the group.

## 4. Creating the position of ombudsman

### ***Who decides on the creation of an ombudsman?***

The management in the case of private media, the board of governors in the case of public media.

### ***How can a medium be encouraged to create an ombudsman?***

In most cases, the position of ombudsman is created following a crisis among the readers, when the medium urgently needs to re-establish links with them. This was the case with the *New York Times*, which appointed an ombudsman in October 2003 after being rocked by revelations that one of its journalists was guilty of plagiarism and inventing stories.

### ***What arguments might persuade media proprietors of the merits of an ombudsman?***

The ombudsman, apart from being “fashionable” (most of the world’s major newspapers have one), makes a significant gesture to the readership and encourages communication with it. It improves the quality of information, style and editing. It prevents major catastrophes: an ombudsman enjoying good relations with the editorial director can perform the function of an advanced guard. Finally, if ombudsmen write well, their columns will be popular and widely read. The public is very interested in finding out how information is gathered and what goes on behind the scenes.

### ***What steps should be taken to create the position of ombudsman?***

The first phase could be establishing a media users’ correspondence department to receive messages (by post, e-mail or telephone), process



them, reply, pass on comments to the people concerned, and, if necessary, publish extracts from the messages. It is also possible to set up a service on the Internet.

Then a charter needs to be agreed by all sides in the media outlet as a basis for the implicit contract with the users. The charter at *Le Monde*, for example, says that information should be provided as precisely, fully and clearly as possible; that there should be a clear distinction between information and commentary; that errors should be rectified; that the newspaper should reflect the plurality and diversity of opinions; and that the rights of individuals and their privacy should be respected.

An ombudsman should then be selected and the initiative announced to the readership.

## 5. The choice of the ombudsman

### ***Should the ombudsman be a journalist?***

Yes. Only a professional can properly appreciate the extent of the errors and mistakes committed and at the same time the difficulties inherent in the job. Media users are often very severe and do not understand the conditions under which journalists work and the difficulties they face, such as time constraints, difficulty meeting sources and general stress. Part of the ombudsman's job is to explain all this to the readers, who greatly appreciate being informed about the making of newspapers.

At the same time, journalists do not realize the extent to which their errors (exaggeration, biased headlines, spelling and grammatical mistakes, etc.) shock readers and destroy the newspaper's credibility. They do not take criticism well. It is difficult enough if the criticism comes from a peer; it would be impossible to accept it from an outsider.

### ***What are the criteria for recruiting an ombudsman?***

Experience, good knowledge of editing, a reputation for professional competence and, above all, impartiality. The main criterion should be independence of spirit, which is not easy to measure but can be identified by looking at a candidate's background and career. The ombudsman must also exhibit a certain amount of diplomacy, which can also be discerned over the long term. An authoritative manner does no harm, either.

The ombudsman should not be too closely linked to any journalists' clique (there always is one), trade union, political party or the management, and must be accepted by the various currents of opinion within a media organization.



***Who chooses the ombudsman?***

Usually the management, preferably in consultation with the editorial staff. Ideally the choice should be submitted to the journalists' association, if there is one. On some newspapers the ombudsman is elected for a given period, which ensures popularity but also makes the office holder suspect in the eyes of management.

***What can be done to ensure that the ombudsman is accepted by the editorial staff?***

Editorial staff and management must have a recognized and common code of conduct, and there must be an internal consensus about the aim of the newspaper and its implicit contract with readers. Information must circulate properly within the organization, and internal criticism and freedom of expression must be possible.

***How sensitive are journalists to criticism by an ombudsman?***

Much too sensitive. Journalists do not appreciate people who put their noses in their affairs and do not take criticism well. Their classic reaction is: "Why is the ombudsman interfering? It's not their job." An ombudsman must be very careful to be impartial to avoid being regarded by journalists as a disloyal colleague acting as a "policeman" (or, worse still, a spy) for the management.

***What is the average salary of an ombudsman?***

That of a department head or editor-in-chief, sometimes more. It is generally quite high because ombudsmen are usually established journalists who are recognized by their peers and have already held positions of responsibility.

***Who should pay the ombudsman?***

The medium itself, possibly assisted by making the payment tax-deductible.

## 6. Challenges of the ombudsman's position

### ***How can the ombudsman's independence be guaranteed?***

An ombudsman should be appointed for at least two years, have a regular outlet for opinions in a column or programme that is not subject to hierarchical control, and have direct contact with readers.

An independent outlet for the ombudsman's opinions is vital. At *Le Monde* this is the only copy that is not proofread in the normal way. The column gives the ombudsman the opportunity to address readers, journalists and, if necessary, the management. It is extremely sensitive and the choice of subject is the most difficult of all.

Ombudsmen's main protection is their popularity. At *Le Monde* an editor-in-chief once tried to change the ombudsman but was frustrated by indignation that this provoked among staff. It is quite difficult for the management to abolish the post or change the occupant, not least because it would have a disastrous effect on the newspaper's image.

Several American newspapers have recently abolished ombudsmen as a cost-cutting measure. The danger is of appointing a "communicator" instead, and transforming the position into a mouthpiece for the management. Readers are not fooled by this and neither is the editorial staff: the replacement becomes at best ineffective and at worst an object of disdain.

### ***Do readers believe in the ombudsman's independence and influence on journalists?***

Many are suspicious. They fail to understand that the existence of the ombudsman and the threat of criticism in the ombudsman's column is a



very powerful self-regulatory mechanism. They forget that the column is read internally. They would like the ombudsman to take their point of view every week and criticize journalists without fail. That is why it is important to maintain direct links with them to justify and explain the ombudsman's role.

At the same time readers are generally very happy to get replies to their questions and highly flattered to be quoted in an ombudsman's column. The "wolves" become "lambs". It is astonishing to see the facility and speed with which the simple act of replying to a query can create links with the readership.

### ***What scope for manoeuvre does the ombudsman have?***

Very little. A compromise has continually to be found between representing the legitimate concerns of the readers (and the quality of the newspaper) and maintaining contact with the journalists (proof of his effectiveness).

Everything depends on the ombudsman having a relationship of trust rather than hostility with both journalists and the management. Ombudsmen should not be too close to either, but must also not be their declared enemy. If they are too close, they will be treated like public relations agents and they will be of no use: readers will be disappointed and will not read their views. If they are too hostile, they will not be able to carry out constructive dialogue: readers will be happy, but the journalists will not listen any more. Maintaining this critical distance is the greatest challenge that an ombudsman has to confront.

### ***L'Hebdo du Médiateur*: a broadcasting example**

By Jean-Claude Allanic (Information Ombudsman of France 2, 2000-2005)

The programme *L'Hebdo du Médiateur* ("The mediator's week") was first aired in 1998 on the French television channel France 2 following the appointment of its first information ombudsman. In this 20-minute programme, broadcast just after the 1 p.m. news on Saturdays, journalists are asked to respond to criticisms, comments and questions from viewers.

Presented by the ombudsman and based on letters received in previous weeks, it reviews how the various bulletins and magazines have dealt with the news. It provides information and corrections where necessary, explains the conditions under which reports were made, clarifies misunderstood news items and misinterpreted commentaries, confesses to errors and makes apologies – not the easiest thing to do!

Normally, two or three viewers are invited to the studio or provide comments by telephone or duplex transmission from home. Extracts from letters and e-mails are read out on air. Journalists reply and discuss matters with the guests, and exchanges can sometimes get quite heated. Specialists can be called in to provide expert opinions on questions being dealt with (for example, economics, science, religion).

The ombudsman must remain as neutral as possible. However, he or she can make a general summary at the end of the programme, recall the basic rules of journalism, or give an opinion and make suggestions for the future based on the professional code of conduct and the broadcasting



charter of France Télévisions, the public television group to which France 2 belongs.

Some of the subjects dealt with in the programme tend to recur: violence on the screen, rigour (or lack of it) in the presentation of facts, journalistic approximation, news priorities, protection of privacy and respect for the individual, lack of respect for pluralism and political neutrality. Other themes depend on the news: conflict in the Middle East, elections, major economic themes, social problems, disasters, scientific discussions, sporting and cultural events. In other words, the programme deals with the major issues of the day from a particular and original angle, namely the critical attitude of the public to the work of journalists.

The success of *L'Hebdo du Médiateur* and the confidence in it shown by viewers stems above all from the special status of the ombudsman – total independence from the management, editorial orientation and hierarchy. The ombudsman alone decides who will be invited to take part. It is the only programme on the station that is not monitored before airing. The principle of the ombudsman mechanism and the tenure of the appointment prevent any attempts at pressure or interference.

In return, the ombudsman is expected to ensure honest and balanced dialogue that allows both viewers and journalists to express themselves in a fair and constructive manner. There are two pitfalls that the ombudsman must avoid. The programme must not be seen as an excuse for whitewashing the journalists and absolving them every week for stepping out of line and making mistakes. On the other hand, it must not be so harsh that journalists regard it as an attack on themselves by the viewers or a condemnation of the quality of their work. The ombudsman must win and keep the confidence of both the public and his colleagues.



# Appendix

## Examples of complaints resolved by self-regulatory bodies

Resolving complaints is the core duty of a self-regulatory body striving to ensure respect for its code of ethics. It avoids lengthy and expensive court procedures and, even though the body provides only moral sanctions, a right of reply or a correction is often enough to satisfy complainants. Most self-regulatory bodies try to achieve agreement between the two sides before giving adjudication.

This appendix gives examples of complaints and adjudications of self-regulatory bodies. Each case has been judged according to the code of ethics of the country in which it was heard, and the results could of course have been different elsewhere. Nevertheless, these examples give an idea of how effective press councils can be in replacing courts and reaching solutions without judicial intervention.

Most of the complaints dealt with by press councils are about breach of privacy or inaccuracy.



## Case 1: Complaint about breach of privacy

The father of a woman missing in the Asian tsunami tragedy complained to the German Presserat (German press council) that a tabloid newspaper had published her name and picture. It was one of several such photographs of victims, taken from an internet site set up to help trace missing people. The father complained that the newspaper had infringed the family's personal right to privacy.

### **Result:**

The complaint was upheld. The Presserat's complaints committee said that any public interest in showing pictures in these circumstances could not override the rights of the individuals involved. Victims of a disaster like the tsunami did not automatically become public figures.

The fact that the information had been published on websites dedicated to searching for missing persons was not sufficient for the newspaper to republish it without the family's consent.





## Case 2: Complaint about breach of privacy

The Press Council of Bosnia and Herzegovina discussed an article in the daily newspaper *Dnevni Avaz* about a traffic accident. The complainant did not object to the article itself, but said photographs of victims were a breach of privacy and should not have been published.

### **Result:**

The complaint was upheld. The press council said it had discussed similar cases before and on several occasions had reminded editors that readers might object to publication of such photographs. In this case, *Dnevni Avaz* had breached Article 9 of the Press Code, which said: "Treatment of stories involving personal tragedy shall be handled sensitively, and the affected individuals shall be approached with sympathy and discretion".

The press council repeated its view that publishing photographs from the scene of an accident, and publishing names of minor victims of violence or victims of sexual harassment, did not comply with professional journalistic reporting.

## Case 3: Complaint about inaccuracy

The managing director of an Islamic bookshop complained to the UK Press Complaints Commission (PCC) that an article in the *London Evening Standard*, headlined “Terror and hatred for sale just yards from Baker Street”, was inaccurate, misleading, and in breach of the clause on accuracy in the commission’s Editorial Code of Practice.

The article was about extremist literature alleged to be on sale in Islamic bookshops in the aftermath of the London bombings. The complainant’s bookshop featured prominently in a photograph, alongside pictures of three titles that the newspaper said advocated terrorism and which it claimed were sold at premises “such as Dar Al-Taqwa”. The complainant said the shop had never stocked the books or the DVD pictured. The article was misleading and led people to believe that the shop promoted and incited terrorism.

The newspaper had quoted selectively from a pamphlet on jihad which was on sale in the bookshop. The complainant said this pamphlet did not incite terror or hatred as the article alleged. As a result of its publication, bookshop staff had been subjected to abuse and threats of violence, and it had been necessary to ask for police protection.

### **Result:**

The complaint was upheld. The PCC said that Clause 1 of its Code of Practice required newspapers to “take care not to publish inaccurate, misleading, or distorted information”. In this case — given the seriousness of the allegations and the sensitive time at which they were published, shortly after the terrorist attacks — there was an overriding need to ensure that information gathered by the newspaper was accurately presented. Although there was no dispute that the bookshop sold the quoted pamphlet,



its contents did not support the extremely serious claims contained in the headline. Sufficient care had not therefore been taken by the newspaper over the accuracy of the story.

The PCC said that, in the climate of anxiety following the attacks, the consequences of the misleading allegations could have been extremely serious for the complainant — particularly as the shop's contact details had been prominently displayed.



## Case 4: Complaint about inaccuracy on a website

The Council for Journalism of Flanders/Belgium received a complaint about an article in the archive section of a newspaper website.

In 2005, the newspaper had published an article saying that the complainant had been accused of sexual harassment. This was incorrect, and the newspaper published a correction in its next edition. However, in 2007 the article was still available on the newspaper's website, where all former editions could be read, and it could easily be downloaded using a search engine such as Google. The complainant said that as a result he did not get a job he applied for.

### **Result:**

The Council's ombudsman only refers cases to the Council if a friendly settlement cannot be achieved. In this case, such a settlement between the complainant and the newspaper could be obtained.

The newspaper was aware of the serious mistake that the article contained, but could not change the original text, which would in a way mean a falsification of historical facts. However, the newspaper was also aware that the article could be harmful for the complainant, and was willing to find a solution. The complainant understood that the original article could not be changed, but wanted immediate clarification that the article contained a serious mistake. The final agreement was that a very clear link should be made in the website from the original article to the correction, so that readers of the original article could immediately see that it had been corrected. The complainant was happy with this solution, and he withdrew his complaint.



## Case 5: Complaint about non-protection of vulnerable persons

The Press Council of Bosnia and Herzegovina received a complaint about an article headlined “High School Student in Hell of Prostitution” in the daily newspaper *Dnevni List*, which named a missing girl, a minor, whom it claimed was involved in prostitution.

### **Result:**

The complaint was upheld. The Press Council ruled that the newspaper had breached Article 11 of the Press Code which dealt with the protection of children and minors. Even though the mother of the missing girl had given information about her to the media, the newspaper had an obligation to protect her identity. This was especially important in a story based only on the mother’s suspicions, which were not confirmed by the police, prosecutor’s office or a court.

The press council recommended that the adjudication should be published in the newspaper’s regular edition.

## Case 6: Complaint about non-protection of vulnerable persons

Thames Valley Police complained to the UK Press Complaints Commission on behalf of an unnamed victim of sexual assault about an article headlined “Rapist cuts off cancer woman’s hair”, published in The *London Metro* newspaper. The article reported that a young woman had been raped, named the town in which the attack took place, and contained details of the assault. It also gave information about the victim, including her age, recent health problems, and details of “the family home” where the attack happened.

The police claimed that the article contained excessive detail and was likely to identify the woman or contribute to her identification, breaching Clause 12 of its Code of Practice which dealt with victims of sexual assault.

The newspaper pointed out that it had not named the specific residential area where the assault took place and it was not clear from the story whether the victim actually lived in that area or even in the same town.

### **Result:**

The complaint was upheld. The PCC said that for a number of reasons, not least the extreme vulnerability of victims of such appalling crimes, the Code of Practice placed very onerous burdens on editors. Not only did the code prohibit identification, it also prohibited publication of information likely to contribute to such identification. There was no defence of public interest to this part of the code as it was crucial that its rigorous terms were followed to the letter by all editors.



In this case, the article had not identified the victim of assault by name or address, but there was enough information to contribute to potential identification and the code had therefore been breached.

The commission said it was extremely important that reports about sex crimes should be scrupulously constructed. Any details beyond the most basic, no matter how small, could identify a victim to someone who did not know of the crime. The purpose of the code was to ensure that this could not happen and that victims maintained the anonymity they deserved. The commission noted that breaches of this clause were very rare, thanks to the generally high standards of reporting.

## Case 7: Complaint about discrimination

A complaint was made to the Swiss Press Council about a cartoon by Chappatte in the daily newspaper *Le Temps*. It depicted the late Pope Jean Paul II under a crucifix beside which a crowd of faithful, some with cameras, were meditating. The crucified Jesus asked them: "Is it disturbing you that I exist?"

The complainant said the drawing insulted Christians and cultured people, and its publication violated the clause on discrimination in the Journalists' Code. If Jews or Muslims had been similarly attacked, a judicial complaint for racism would have been lodged.

### **Result:**

The complaint was not upheld. The Swiss Press Council said that satire and cartoons concerning religious topics were usually acceptable. This freedom was not limited by the fact that some religions banned the depiction of certain objects or people, and it did not have to take into consideration the particular sensitivity of some orthodox circles. This freedom should be exercised proportionately, in a democratic spirit.

In this case, limits to the liberty to comment were not exceeded in view of the huge public and media interest in the death of the Pope. The judgement on which this cartoon stood and its factual foundation were recognizable by the public.



# Biographies

## The authors

### **Yavuz Baydar**

Having introduced the concept of ombudsmanship to the Turkish press and its readers, Yavuz Baydar is now serving his seventh year as an ombudsman and publishes every Monday his weekly column in the daily *Sabah*. His first appointment as an ombudsman was in 1999 for *Milliyet*. Yavuz Baydar is also an active member of the Organisation of News Ombudsmen (ONO). There he served as an officer, vice president, and as a first non-North American president of the organisation in 2003 and 2004. Before he became an ombudsman, Baydar worked as a reporter, foreign correspondent and editor for different media.

### **William Gore**

William Gore joined the Press Complaints Commission (PCC) in 2000 as a complaints officer, after he graduated from Oxford University, where he read modern history. Having served for twelve months, he took over responsibility for the Commission's international work, playing an advisory role in the establishment of a new press council in Bosnia and Herzegovina, among other things. In March 2004 William Gore was appointed Assistant Director of the PCC. He maintains his role in international affairs and in the daily handling of complaints but has wider responsibility in the overall work of the PCC.

### **Miklós Haraszti**

Hungarian writer, journalist, human rights advocate and university professor, Miklós Haraszti was appointed the OSCE Representative on Freedom of the Media effective from 10 March 2004. Mr. Haraszti studied philosophy

and literature at the Budapest University. In 1976, he co-founded the Hungarian Democratic Opposition Movement and in 1980 he became an editor of the samizdat periodical *Beszélo*. In 1989, Haraszti participated in the “roundtable” negotiations on transition to free elections. A member of the Hungarian Parliament between 1990 and 1994, he then moved on to lecture on democratization and media politics at numerous universities. Mr. Haraszti’s books include “A Worker in a Worker’s State” and “The Velvet Prison”, both of which have been translated into several languages.

### **Véronique Maurus**

Véronique Maurus has been the ombudswoman of the French daily newspaper *Le Monde* since 2006. Having studied English and Economy, Véronique Maurus joined the editorial team of *Le Monde* at the age of 22, and made her career there. She began working for the economic department of the paper and by 1995 achieved a status of a serious reporter and became deputy head of the Reports’ section. She is also an author of two books: “Voyage au pays des mythes” and “La vie secrète du Louvre”.

### **Ognian Zlatev**

Ognian Zlatev is Managing Director of the Media Development Centre in Bulgaria. This organisation was established in 1998 to promote the development of independent media in Bulgaria, to foster capacity-building of the media and to boost the networking and cross-border cooperation in Southeastern Europe. Ognian Zlatev is also a Board Member of the National Council for Journalism Ethics of Bulgaria, a founding and Board member of the South East European Network for Professionalization of the Media (SEENPM), and a member of the Board of the South East European Media Organization (SEEMO), associated with the International Press Institute in Vienna.

## The editors

### **Adeline Hulin**

Adeline Hulin has been an Assistant Project Officer of the Office of the OSCE Representative on Freedom of the Media since 2006. Prior to that, she worked as a consultant for the French Liaison Centre between the Media and Education (CLEMI) and for the UNESCO, dealing with media education programmes. She holds a Master's degree in journalism from the University Paris Dauphine and a BA in Political Sciences from the Bordeaux's Institut d'Etudes Politiques.

### **Jon Smith**

Jon Smith worked as a journalist for a range of British newspapers, including *The Times*, before becoming senior lecturer in journalism at Darlington College, England, specialising in media law and ethics. He is an examiner for the UK's National Council for the Training of Journalists and author of its recommended introductory journalism textbook "Essential Reporting".



## Notes

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