

Press Codes in Europe

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All EU countries have some sort of media self-regulation codes that are directed to the institutions or to the persons working in or for them. 1

A few examples: 2

- In Germany the 1973 *Pressecodex* (revised in 1994) laid down by the *Deutscher Presserat*, a self-regulatory body created in 1956 by the journalists associations and the newspaper publishers.
- Austria also has a national Press Council founded in 1961, which adopted a "Code of honour" in 1983.
- In Spain the federation of Spanish press associations (FABE) adopted a professional Code in 1993, but there does not appear to be an institution similar to the Press Council which is found in many other EU countries.
- In France the historical *Syndicat National des Journalistes* (SNJ) adopted in 1918, a "*Charte des devoirs professionnels des journalistes*" which was revised in 1938. Despite this long experience there is no equivalent of a Press Council.
- Italy presents a distinctive feature because journalism is a regulated profession which requires that a person be a member of professional body (*Ordine dei Giornalisti*). The main obligations of the profession are therefore fixed by the law (Law n° 69 of 1963) and the profession is governed by a public body which is articulated locally (*Ordini regionali*) and nationally (*Consiglio Nazionale dell'Ordine dei Giornalisti*).
- The Netherlands Press Council, created in 1961, adopted the Bordeaux declaration of principles of the International Federation of Journalists (revised in 1968).
- In Great Britain the National Union of Journalists (NUJ) adopted a Code of conduct in 1936. Only later (in 1953) was a General Press Council created by the press association and newspaper publishers. The Council has subsequently changed its name to Press Complaints Commission (PCC).

The self-regulatory model followed by most EU countries for the printed press varies considerably when it comes to electronic media, mainly radio and television. One should not forget that until the '80s broadcasting in Europe was a State monopoly and even since then the activity by private enterprises has 3

been surrounded by strict regulation purported to protect public interests. In addition to this general legislation, there are widespread charters by which the State determines content and quality of the programmes of the public broadcasters.

- 4 These sets of rules are therefore addressed to broadcasting institutions rather than private individuals engaged in news dissemination. There is, however, a certain amount of self-regulation.
 - In Germany private broadcasters are under the control of the regional media councils (*Landesmedienanstalten*) which intervene on the topics of deontology and pluralism in information, protection of childhood and advertisement.
 - In France there has been a *Conseil Supérieur de l'Audiovisuel* (CSA) since 1989 which not only indicates the chief executives of the public broadcasting networks, but also releases the authorizations for private broadcasters and supervises the respect of the charters (*cahiers de charge*) imposed on public broadcasters.
 - In Italy, since 1997 the *Autorità per le Garanzie nelle Comunicazioni* (AGCOM) has condensed regulatory competencies in the field of broadcasting and telecommunications. The essential duties of all broadcasters are fixed by law, while the specific obligations of the public broadcasting service are set out by the Ministry of Communications. There are several codes of self-regulation, especially concerning minors as subjects of information and as viewers.
 - In the Netherlands the Media Commission has the task of verifying that associations demanding access to the air-waves respect a certain percentage in programming (information, education, culture, entertainment).
 - In Great Britain the long tradition of the BBC and the subsequent introduction of commercial television brought a distinction between the Broadcasting Standards Council (BSC) and the Independent Television Commission (ITV). In 1997 the Broadcasting Standards Commission replaced the first body, but has included in its scope the Broadcast Complaints Commission and therefore can intervene both in public and private television.
- 5 As to the content of self-regulation, codes should be examined according to the subject to whom they are directed.
- 6 Press codes generally are addressed to journalists, rather than publishers, and prescribe various rights and duties among which the most recurrent are:
 - Truthfulness and duty to rectify mistakes
 - Independence and impartiality
 - Integrity, also in relation to advertisement
 - Respect of private life
 - Non-discrimination
 - Protection of minors

- Access to information and confidentiality of sources
- "Conscience clauses"

Legislation and regulation in the field of electronic media are mostly harmonized through Directive no. 552/89 which imposes on broadcasters duties related to

- protection of minors
- right of reply
- amount and content of advertisement.

The various self-regulatory codes tend to expand or more clearly define those duties, imposing them also on the individuals who are employed by broadcasters.

The main problem in analysing media codes in Europe is how to assess their efficiency. The mere fact that they exist does not necessarily imply that they are respected.

From this point of view it would be easy to point out that starting from the country where freedom of the press is among the most cherished liberties, Great Britain, the popular press appears to depart widely from the principles set out by self-regulatory codes.

It is necessary therefore to highlight some issues:

- It could be reasonable to establish a connection between media litigation (especially in the fields of defamation and invasion of privacy) and press codes. One could infer that the wider the litigation (and the number of adjudications against the media), the less effective are the press codes. This conclusion, however, needs to be supported by consistent data on the number of the claims, on their grounds, on their outcome. This data is lacking. One should, further, compare these results with those of socially equivalent countries in order to venture some opinions on the degree of effectiveness of the codes (it could be suggested that they are performing at their best and that they cannot produce better results).
- There is a significant difference between laws and self-regulatory codes of practice. The enforcement of the first depends greatly on the initiative of the aggrieved third parties. Press codes depend on the self-control of the profession and of its single members. It is not possible, without detailed surveys, to ascertain to what extent press codes are considered in the editorial process. It would be necessary to verify the adherence to the codes in a reasonably large sample of journalists.
- Inasmuch as press codes are self-regulatory, their compliance appears to depend mainly on the skills that the members of the profession have been taught and have learnt. Very simply one should have the following data:
 - do members of the profession have to take classes (and exams) on media ethics before entering it?

- do publishers, media enterprises or press councils organize periodical re-fresher classes on media ethics and are these compulsory?
 - do press councils (where they exist) take a lenient or a strict view of press code violations?
- 12 Although this will not give us significant data on the effectiveness of press codes, it would allow us to verify how much awareness there is in the profession and the industry concerning media ethics issues.
- 13 From this perspective it is quite obvious that strictly legal aspects tend to fade away, while social and sociological ones are far more relevant.
- 14 **Literature**

Among the latest contributions to the subject:

- A. Belsey/R. Chadwick, *Ethical Issues in Journalism and the Media* (1992).
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 C. Frost, *Media Ethics and Self-regulation* (2000).
 A. Guedj, *Liberté et responsabilité du journaliste dans l'ordre juridique européen et international* (2003).
 G. Lingua (ed.), *Comunicare senza regole? Etica e mass-media nella società globale* (2002).
 R.L. Moore, *Mass Communication Law and Ethics* (2nd edn. 1999).
 H. Pigeat/J. Huteau, *Déontologie des médias. Institutions, pratiques et nouvelles approches dans le monde* (2000).
 K. Sanders, *Ethics and Journalism* (2003).
 Ph. Seib, *The Global Journalist* (2002).
 H. Stephenson/M. Bromley (eds.), *Sex, Lies and Democracy. The Press and the Public* (1998).

Der Persönlichkeitsschutz gegenüber Massenmedien aus der Sicht eines Medienmitarbeiters

Benedikt Kommenda*

I. Einleitung

Als die oberösterreichischen Sicherheitsbehörden am 11. Jänner 2000 im Zusammenhang mit einer langen Serie von Brandanschlägen die Festnahme eines Verdächtigen meldeten, erhob sich für die Medien in ganz Österreich sofort die Frage: Durfte in einer identifizierenden, den Namen und vielleicht auch das Bild des mutmaßlichen Brandstifters veröffentlichenden Weise berichtet werden? Der Fall zeigt sehr anschaulich, vor welchen schwierigen Abwägungen zwischen Informationsauftrag und Persönlichkeitsschutz die Medien in der Praxis mitunter stehen.

Dreizehn offenbar gelegte Feuer hatten die Bevölkerung des kleinen oberösterreichischen Ortes St. Georgen an der Gusen in Atem gehalten. Die Medien und mit ihnen wohl auch die Bevölkerung ganz Österreichs hatten mitverfolgt, wie sich die Bewohner der Mühlviertler Ortschaft geängstigt und gegen neue Anschläge zu schützen versucht hatten: Wer mochte es gewesen sein, der Monate hindurch St. Georgen terrorisiert hatte?

Verdächtig, festgenommen und in der Folge auch rechtskräftig verurteilt wurde ein damals 16-jähriger Bursch, ein Lehrling, der auch bei der Freiwilligen Feuerwehr mitgearbeitet hatte. Wohl wegen des geringen Alters des geständigen Verdächtigen verzichteten die meisten Zeitungen darauf, seinen vollen Namen zu nennen und ein identifizierendes Bild zu bringen.¹ Keinerlei Zurückhaltung übte hingegen die „Neue Kronen Zeitung“, die auflagenstärkste Zeitung des Landes: In ihrer Ausgabe vom 12. Jänner 2000 bildete das Boulevardblatt das Gesicht des jungen Mannes nahezu formatfüllend auf Seite 1 ab und nannte, in einer Bildüberschrift direkt unter der Schlagzeile („Der Feuer-teufel: Sein Geständnis“), seinen vollständigen Namen.

Ernst Swoboda, als Justitiar der „Krone“/„Kurier“-Tochter Mediaprint juristischer Berater der Zeitung, rechtfertigte Tags darauf die Vorgangsweise des Bou-

* Ich widme diesen Beitrag meinen Eltern.

¹ Siehe z. B. „Die Presse“ vom 12. Jänner 2000, 1 und 3.