

“REVERSED CENSORSHIP”? ASSESSING MEDIA SELF-REGULATION IN THE BALTIC COUNTRIES

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ABSTRACT

A paradigm shift in the European media and communications policy from public service orientation towards market liberalization raises the question of effective mechanisms for safeguarding public interest and counterbalancing the commercial objectives of the media industry. This article discusses the efficiency of one of particular mechanism, self-regulation, in the context of the Baltic States and their extremely liberal media policies. Due to the imbalance between market forces and regulation, within the conditions of immature civic and media cultures, the media in the Baltic countries have developed a unique form of ‘reversed’ censorship. Governments establish censorship to limit the freedom of the press; ‘reversed’ censorship is established by the media to limit the freedom of expression. The ideology of a free media has been turned into a means of increasing the power of the media. Voices demanding accountability or criticizing the media for irresponsible performance are suppressed, as the media do not tolerate external criticism.

KEY WORDS

media policy – self-regulation – EU – the Baltic countries

1. Introduction

Technological, economic and social developments within the last two decades have fundamentally changed the context of media policy: ownership is concentrating (and the number of content suppliers is decreasing), the technology is converging and the audiences are fragmenting (cf. Dragomir – Thompson 2008). As Van Cuilenburg and McQuail (2003: 197) argue, public service media policies that were dominated by socio-political rather than economic strategic concerns have been challenged since the 1980s. A new communications policy paradigm is emerging, which results from technological and economic convergence, where boundaries between information technologies and communication networks are blurring and where the branches of computing, communications and content (publishing) are merging. From the viewpoint of the public interest, it is important to identify the priorities of the emerging new paradigm – “whether they have primarily to do with political welfare, social welfare or economic welfare” (ibid: 185). McQuail and Van Cuilenburg are not alone in indicating that a logic biased towards economic and technological benefits drives this emerging media and communications policy paradigm (see e.g., Venturelli 1998, Harcourt 2004, Klimkiewicz 2009).

EU media and communication policy has simultaneously pursued economic and technology oriented de-regulative direction and market-correcting direction (protection of cultural diversity through European quota, European co-productions and production

by independent producers) (Klimkiewicz 2009: 65–66). In new EU member states, Jakubowicz argues, the EU accession process has affected the media and media policies primarily in three ways. Firstly, EU acceptable standards have been applied to the media systems and freedom of expression. Secondly, EU directives establish “the legal frame of reference for the free movement of television broadcasting services in the Union in order to promote the development of a European market in broadcasting and related activities, such as television advertising and the production of audiovisual programmes” (Jakubowicz 2009: 6). Thirdly the media and audiovisual policy of the EU aims at creating favourable conditions for the development of internal markets and “to achieve freedom of movement for goods (including newspapers and magazines, for example) and services (including radio and television broadcasts)” (ibid). All these three developments reflect a general internationalisation and expansion of media markets accompanied by a gradual reduction of national media specific regulative measures. The EU media political recommendations suggest diminishing entry barriers for service and content providers by loosening regulatory red tape. The industry is called for an extensive self-regulation and responsiveness to public feedback in order to safeguard public interest and counter-balance the commercial objectives of the business. The European Audiovisual Media Services Directive (AVMSD) of December 2007 anticipates that “the measures aimed at achieving public interest objectives [...] are more effective if they are taken with the active support of the service providers themselves” (AVMSD, art. 36). There is no evidence, however, of serious initiatives of the media industry in any of the EU countries for establishing an efficient accountability mechanism able to balance media’s business objectives with public interest objectives and maintain an active media critical public debate. The argument of this article is that the conditions for successful implementation of this kind of “light touch regulation” (Dragomir –Thompson 2008: 18) have yet to emerge, particularly in the EU member countries of Central and Eastern Europe (CEE). In much of the CEE, various political interests and forces are responsible for creating unfavourable conditions for easing legal regulation and encouraging self-regulation. According to an extensive report on the broadcasting environments in CEE “many of the regulators in these countries are still subject of blatant political interference” and the new political elites “openly strive to restore tight control” over the public service media (ibid: 20). Nevertheless, in countries with liberal market policies and limited state interference, such as the Baltic States, the conditions suitable for developing efficient accountability mechanisms are, theoretically, present. However, media industries in these countries have little motivation to develop efficient instruments of accountability, which would guarantee transparent and fair media performance. Instead, the “light touch regulation” and large freedoms are increasingly used by the media elites for “[...] exercising self-interested political and economic power rather than acting as a disinterested check on the abuse of such power by others” (Schultz 1998: 4).

This paper aims to examine the efficiency of media accountability mechanisms in the Baltic countries by seeking which factors are present to counterbalance the media’s commercial objectives and to what extent they are able to safeguard and promote public interest, consumer protection and pluralism of opinion. Particularly, the paper focuses on *self-regulation* as an instrument that depends mostly on the media industry’s supposed initiative and involvement.

The Baltic countries share a similar post-World War I history and were all part of the Communist bloc for almost half a century after the WWII. Since the restoration

of their independence two decades ago they have acquired the status of fully-fledged consolidated democracies and become members of the EU (cf. Smith 1999; Zielonka – Pravda 2001). Thus, they represent post-Communist countries with a rapidly changing society and media, and the problems that accompany this political and societal transformation (cf. Splichal 2001; Rose 2006; Jakubowicz 2007). They also represent the small states' perspective in terms of population size and size of media systems¹. As has been argued, "the economic realities in small states (i.e. the small domestic market limited by population size) are of importance and have implications for the media system" (Puppis 2009: 10). Their dependence on world markets is as high as their vulnerability regarding external disruptions (ibid: 9). This makes flexibility in economic matters important, but also increases the need for state regulation and control in order to safeguard media's cultural and social obligations (Siegert 2006: 202; Puppis 2009: 9, 14). Several observations (Hallin 2009; Puppis et al. 2009) suggest that small states tend to exercise 'interventionist' approaches in media policy with specific regulations concerning, for example, media concentration and cross-ownership, state subsidies and support programmes. This kind of intervention is characteristic to the countries of the "democratic corporatist model" of Northern Europe, especially Scandinavian countries (Hallin – Mancini 2004).

From the 1990s onwards, the Baltic States have adopted the concept of an extremely liberal media policy with minimal regulation and state intervention (cf. Baerug 2005; Balčytienė – Lauk 2005). The path of the "competition or market approach" in media policy has led to the high level of concentration of media ownership in these countries and the dominance of market logic in the media's performance, which is not balanced with appropriate legal regulation (Puppis 2009: 13).

Media self-regulation emerged as a new development in these new democracies and does not have any historical tradition whatsoever (Harro – Lauk 2003). Estonia adapted the Finnish model of self-regulation with a Press Council representing both the media and public organizations. Since 2007, the Estonian Public Broadcasting also has an Ombudsman, instituted by law. In Lithuania, self-regulation bodies were established by law with the participation of state authorities and combine the media, the public and state representation. Formally, the model was copied from Sweden, namely the press Ombudsman and the Council of Ethics. In Lithuania, these institutions are called the Inspector of Journalist Ethics and The Ethics Commission of Journalists and Publishers (Balčytienė 2006: 101).

Latvia has neither a Press Council nor an Ombudsman. The Latvian National Radio and Television Council does however, deal with complaints concerning public and private broadcasting, which can be regarded as a kind of co-regulation.

The Codes of Journalistic Conduct were adopted in Latvia in 1992, Lithuania in 1996 (amended in 2005) and in Estonia in 1997. The Lithuanian and Estonian Codes serve as the basis of adjudications of their Press Councils and are recognized by journalists and media organizations. The majority of Latvian media do not recognize the Code of ethics that was adopted by the Latvian Journalists' Union. Instead, in 2001, seven newspapers and Radio KNZ signed a separate Code of ethics (Šulmane 2008).

2. Media policies in the Baltic countries

In a democratic society, two groups of factors acting in unison ideally form an environment, where media's public service objectives and business objectives would be equally advanced.

1 The population of Estonia is 1.34 million, Latvia 2.29 and Lithuania 3.38 million.

The first consists of general freedom of the press; legislation supportive of press freedom; and limited state intervention (in political, economic and legal terms) to ensure the structural and professional development and public service functions of the media. The second group represents factors that are supposed to ensure responsible use of the press freedom and provide a counterbalance to the media's business objectives. These are the existence of accountability instruments that support media transparency, pluralism and responsibility (e.g. press councils, codes of ethics, ombudsman's institution etc.); legal practices supportive of accountability; and public control over the media through a critical public debate and dialogue between the public and media organizations (e.g. in the format of 'public editors', media critical web sites and blogs etc.). Where no effective mechanism exists to oversee how the media fulfil their public service functions, commercial interests inevitably take over and the quality of journalism suffers severely (cf. Coman – Gross 2006).

In nations with developed civic and media cultures (for example Germany, Finland, Norway and Iceland), public control and media self-regulation mechanisms have relatively strong authority among media organizations and journalists. In countries that still continue to struggle with unsolved political, economic and social problems, media self-regulation is developing under specific circumstances, largely under the control of media elites (Lauk 2008b: 61). In the Baltic countries, the media industry enjoys the benefits of non-regulated markets and practically unlimited freedom of the press that *per se* do not motivate accountability. The liberal, market oriented ideology has become the main engine behind media development and this clearly affects the journalistic culture and professional autonomy of journalists. How then does the combination of the aforementioned factors influence the promotion of the self-regulation concept in the Baltic media field?

3. Large freedom of the press with minimal regulation and state intervention

Media freedoms in all ten new EU member countries more or less correspond to Western standards. Today, several of the new EU countries stand at the top of global rankings (such as Freedom House or Reporters without Borders). In the Press Freedom Index of Reporters without Borders, the Baltic countries have been placed among the top 25 nations for the past four years, sharing their positions with the Nordic countries, Belgium, The Netherlands, Switzerland and Austria – which are all countries with a high level of civic culture and journalistic professionalism. The rankings, however, do not reflect the quality of media performance, but only a favourable environment for the media. High levels of the press freedom do not necessarily correspond to the high status of the freedom of expression for journalists and citizens.

All post-Communist countries have passed new media legislation in the course of general legal reforms. Their Constitutions guarantee the freedom of expression, access to information, protection of minors and protection of human dignity. Each country has copyright and advertising laws that concern the media, as well as the laws regulating the access to information. In addition, most of them have also passed specifically media targeted laws with varying scope and focus of regulation (cf. Sükösd – Bajomi-Lázár 2003). In the Baltic States, Lithuania has a *Law on Provision of Information to the Public* that regulates the functioning of all mass media and lays down the obligations and liabilities of journalists, public information producers, and disseminators. In addition, there is a law regulating specifically public service broadcasting – the *Law on the National*

Radio and Television. Latvia has the *Freedom of Information Law*, the *Law on Press and Other Mass Information*, and the *Radio and Television Law* for the national public service broadcasting. A new law on electronic media has been adopted in Latvia in 2010. Estonia is the only Baltic country that does not have a specific law concerning print media. The *Estonian Broadcasting Act* regulates both public service and commercial broadcasting (Lauk 2008a). The *Estonian National Broadcasting Act (2007)* deals specifically with issues of public service broadcasting (Estonian National Broadcasting Company). In general, the legislation aims at the democratization of the media and the majority of the laws are aligned with EU legislation (cf. Jõesaar 2009). There are, in addition, other laws that also regulate media activity: the Constitution, the Copyright Act, Law of Obligations Act etc. The general problem is, however, that current social, economic and media environments are not conducive to efficient implementation of these laws. None of the three countries seems to have the sufficient capacities necessary to enforce compliance with these laws and rules. In many cases, the laws are “dormant” – they are there, but do not have any effect. One of the obvious reasons is the insufficiency of relevant court practice. For example, there are very few lawsuits against the media from ordinary citizens because of the extremely high costs incurred in legal proceedings. Celebrities, businessmen or politicians are those who usually can afford to sue the media.

In Estonia, the courts deal with cases concerning the media (e.g. defamation) according to the Law of Obligations Act and other laws applicable to the media. It is next to impossible to sue a media organisation for moral damages because the Law of Obligations Act demands that the complainant must explicitly prove the exact nature of the moral damages (e.g., health problems etc.). In fact, an individual is defenceless against defamation or offence, because there is not any effective legal means to prevent the media from damaging someone's integrity. The Government's attempts to draft amendments to this law to introduce the concept of punitive damages met with a furious reaction from the press. The six largest Estonian dailies protested against the amendments by publishing blank front pages on March 18, 2010. In the public debate, the newspapers emphasized that the introduction of punitive damages is a threat for press freedom and signalled the end of investigative reporting. One of strongest arguments was that if the law enacts high compensations for moral damages, it becomes possible to force journalists not to publicize certain issues. The individual's right for compensation for moral damages was completely left aside in these discussions, as well as other issues that did not support the arguments of the press against the legislator. This case demonstrates how sensitive media organisations are about the danger of becoming economically affected for abusing their power, and how they use the freedom of the press for defending their economic interests.

The intervention of the state in the media in the Baltic States is minimal compared to the other countries in the region, even to Nordic countries (Balčytienė 2005). None of the Baltic States have regulations preventing the concentration of media capital, nor are there any restrictions concerning cross-media ownership or foreign ownership². As a consequence, the largest media companies in Estonia and Latvia are owned by foreign media capital (coming mainly from Nordic countries). For example, the largest Estonian media company *Eesti Meedia (Estonian Media)* is 100 percent owned by Norwegian *Schibsted ASA*. Together with a national media company they control about 80 percent of the press market and a significant share of the broadcasting market. The entry of newcomers to this

2 In August 2010, however, Estonia passed an anti-monopoly law. In Lithuania, strict rules apply to political advertising and advertising of alcoholic drinks; political ownership of the media is also prohibited by law.

oligopolistic media market is, therefore, extremely difficult. In Lithuania the share of foreign ownership is somewhat smaller than in Estonia and Latvia (Balčytienė 2006). The most influential owners come from Sweden (*Modern Times Group* and *Bonnier*). Lithuanian laws do not ensure media ownership transparency, and information on the true owners of various media companies and outlets is difficult to access (although the companies are registered in the Register of Enterprises). None of the three Baltic States have, therefore, introduced a national level media policy that would create a supportive framework for media accountability concept to take effect.

4. "Thin ice" of *laissez-faire* market policy

The media industry's only significant regulatory mechanism in the Baltic States is the market, especially in the context of privately owned press and broadcasting. Proposals made in the early 1990s to impose a stricter regulation, were met with fierce resistance by the media as attempts to re-instate censorship and state control. In Estonia, four different drafts of media laws were proposed and publicly discussed, but none of them was ever passed. There is no consensus, even today, among media professionals in Latvia whether a common code of ethics for the Latvian media is necessary and possible (Šulmane – Berzinš 2009: 175).

The liberal, *laissez-faire* approach has led to the oligopolistic situation in the small Baltic media markets.

A few large and wealthy media firms could provide better quality and more innovative media products as well as ensure better working conditions for journalists than a plethora of small and highly competitive local media suppliers with very limited resources.

(Balčytienė 2009a:40)

There is a growing tendency, however that "the synergistic logics of media conglomerates" results in producing content that is repackaged and circulated in different outlets of the same company instead of investing in original news production (cf. Croteau – Hoynes 2001). The marketability aspect and not journalistic quality seems to have become the main news criterion for most of the press and broadcasting. Public service broadcasters, whose functions are prescribed by respective legislation, are not able to compete with commercial channels and are losing positions in all three countries³. There are only a few semi-quality newspapers in the Baltic market (*Eesti Päevaleht/Estonian Daily* and *Eesti Ekspress/Estonian Express* in Estonia, *Kauno diena/Day of Kaunas* in Lithuania and *Diena/Day* in Latvia) that try to follow public service objectives by offering breaking news and some degree of investigative journalism. The dubious change of the ownership of Latvia's most influential daily *Diena* in 2009 (that refers to the driving force of certain political interests) and the executive changes in the late spring of 2010⁴ enabled analysts to declare "this could be the beginning of the end of the free press in the country" (Savchenko 2010).

3 Their audience share remains between 10 and 23 percent (Lauk 2008a: 6; EMOR, TNS Latvia).

4 The previous Swedish owner, *Bonnier Business Press*, sold the daily to the Rowland family in England who have continuously avoided to meet the paper's staff. The change of owners was followed by replacing the newspaper's executives who now represent the political party called *For a Good Latvia* (Savchenko 2010).

Although foreign investments have remarkably contributed to the technological and management advancement of the press, they have not raised the quality of journalism. Foreign parent companies overtly distance themselves from any social responsibility (Balčytienė – Lauk 2005; Lauk 2009). As a consequence, a serious conflict of interests for the local managers of the foreign owned media has appeared: under the pressure of market competition they are not able or do not care to be concerned about improvement of national journalism (Balčytienė – Lauk 2005; Balčytienė 2009b).

The oligopolistic situation in small markets also has consequences on the journalists' working environment and occupational behaviour. Journalists without professional education, who are only trained in editorial offices⁵, see nothing wrong in authoring stories that sell and having only vague ideas about professional ethics⁶. "For me, the most important is to get the story and professional ethics comes after that. If you work in the media, you have to be cruel, there is nothing to do", an Estonian journalist declared in an interview to a researcher (ibid: 52). Furthermore, even highly educated journalists with long working experience often take the commercial pressure as a natural aspect of their work and do not see a problem in it. A leading Estonian journalist (with an M.A. degree) says: "[...] Journalism truly is business. And its problems come from not being a good enough business. [...] Business is the primary thing. And if journalism wasn't business, if it didn't depend on business, it makes me ask, what should it depend on? And should it depend on government finances, we can't really talk about independent and free journalism." (Interview 7).⁷

The small size of the market influences journalists' work also in respect of their relationships with sources. In small societies, like those in the Baltic nations, the choice of experts on political, societal or economic issues is limited and thus, the journalists' dependence on their sources is higher. Balčytienė (2009a: 47) sees signs of clientelism in the relationships between journalists and sources in the Baltic countries (cf. also Hallin – Mancini 2004).

In a small market, the options for choosing jobs are also limited. In the Baltic States, the majority of journalistic jobs are concentrated in the capitals where most of the publishers are located. Some rural regions have only one employer. The economic recession of the recent years has also affected the journalistic job market. For instance, in Estonia in the early 2010, two hundred unemployed journalists (16 percent of the Estonian journalist population) had been registered in the Estonian Unemployment Insurance Fund⁸. Scarce employment opportunities and a competitive job market increase the importance of the loyalty of journalists to their employers and the probability of placing the employer's commercial interests over professional ideals. This situation also hinders journalists' involvement in discussions about professional and ethical dilemmas (cf. Šulmane – Berziņš 2009). Furthermore, many of the leading journalists of the 1990s, a period characterised by an unsaturated market, rapid societal reforms and a high level of enthusiasm

5 In Estonia, in 2009, 47 percent of journalistic workforce did not have any professional education (according to a survey conducted in cooperation of the Institute of Journalism and Communication of Tartu University and Reuters Institute for the Study of Journalism of Oxford University); the share of the workforce with journalism or media degree from a University is approximately 38 percent (Abel 2006).

6 As in the Master's Thesis by Maili Kangur completed in 2009 under the title "Eesti ajakirjanike hoiakud eetiliste konfliktide puhul" ["Attitudes of Estonian journalists in case of ethical conflicts"] at the Institute of Journalism and Communication, University of Tartu.

7 Interview with an Estonian male newspaper journalist in 2009. Research project Newsworld Across Europe led by Dr. Henrik Örnebring, Reuters Institute for the Study of Journalism of Oxford University.

8 <http://www.tootukassa.ee/index.php?id=1132> (8. 8. 2010).

for the freedom of expression, have left the profession because of the increasing limitations on individual professional autonomy. Journalists' associations in all the Baltic countries have too little power and too little authority to relieve the tensions between the commercial interests of employers and the professional interests of journalists. In 2007, differences of opinion split the Latvian Journalists' Union. A conservative leadership, which was not interested in developing accountability instruments, gained predominance (ibid).

5. Problems of media self-regulation in Estonia

The story of media self-regulation in Estonia demonstrates the dangers of *laissez-faire* market policy, when it is practiced without proper balancing forces being implemented or taking effect (cf. Lauk 2008b; Lauk 2009). Estonia will face a situation where the free media pro-actively begin to restrict the freedom of speech and pluralism of opinion, and establish a kind of 'reverse' censorship in the interests of media capital.

The efficiency of self-regulation in protecting media's public service objectives clearly depends on the impartiality of the self-regulation bodies from the industry that is reflected in their composition, financing, rules and procedures of work.

In 1991, the newspaper publishers' organization *Estonian Newspaper Association* (ENA) established a press council that in Estonian was called *Avaliku Sõna Nõukogu* (ASN) or *The Council of Public Word* (*Estonian Press Council* in English, www.asn.org.ee). During the first six years of its existence, the Council dealt with more than 100 cases and worked out the Code of Conduct for Estonian Journalism. The Council was reorganized in 1997 into a non-profit organization in order to strengthen its impartiality and ensure wider public participation through lay organizations (Lauk 2009).

Within two years, the number of complaints doubled (from 15 in 1996 to 33 in 1998).⁹ During subsequent years, the Council annually dealt with 30 to 37 cases and also issued several public statements about the principles of good journalistic conduct and the quality of media performance. The editors-in-chief and publishers of the six most influential newspapers took this critical approach as a threat to the commercial success of their outlets and made an attempt to dismiss the ASN. When this ended in failure, the Estonian Newspaper Association withdrew from the Council and established another Press Council (www.eall.ee/pressinoukogu/index-eng.html) in early 2002 to deal with complaints concerning its member publications. Today, some Internet portals, commercial TV channels and the Estonian National Broadcasting Company also recognize this press council.

The composition of the ENA's Press Council clearly reflects its dependence on the publishers and owners. The members are chosen and appointed by the Newspaper Association for two years. Six out of ten members are related to the Association (editors-in-chief and other media executives). Throughout its existence, the Chairman's position has been rotated among the editors-in-chief of the largest newspapers. The Council is financed by the Newspaper Association's member publications.

The original press council (ASN) also continues its activities and deals with complaints from the public. The ASN performs the tasks of a media critical and analytical institution and is recognized as a self-regulation body by the Estonian Journalists' Union. The Council consists of 10 members who are delegated by the Journalists' Union and other non-governmental organizations (such as the Lawyers' Association, consumers' organization, the Media Educators' Association etc.). The Council is financed by membership fees

9 <http://www.asn.org.ee> (Accessed 8. 8. 2010).

of the member organizations. The fee is very small as the NGOs are relatively poor, and thus, it barely covers management costs. The Journalists' Union allows the ASN to use its facilities for the Council's meetings.

The rules and practices of procedure differ between the two press councils. The ENA press council deals only with complaints concerning materials published exclusively about the complainant (Statutes p. 3). This excludes, for example, cases where disabled people or children are abused by the media, as they are unlikely to complain or do not know how to complain. The ENA Council only deals with complaints that concern cases of up to three months old. Before the meetings of the Council, the Executive Secretary together with the Chairman and the Deputy Chairman draft an adjudication, which the Press Council members receive before the meeting (Rules of Procedure 3.6.). This makes the Chairman's role decisive.

The Council neither initiates cases nor makes public statements or analyses about the quality of media performance. The adjudications of the Council are usually published in the newspapers in a concealed manner or shown on TV screens for only a few seconds that does not allow sufficient time for a normal reading. While the Newspaper Association and the media emphasize the importance of the role of the Press Council in self-regulation and the defence of press freedom, their practices do not really confirm this role.

The ASN accepts a complaint irrespective of whether the plaintiff was the person involved or not. The time limit for complaints, which ASN deals with, is six months. The ASN also initiates cases by itself and makes public statements and publishes media critical analyses. These, however, are mainly published on its home page. In rare cases a newspaper or an Internet news portal picks up a statement or adjudication, but only if it concerns a competitor outlet. The Newspaper Association and its Press Council (the ENA) have succeeded in blocking the ASN from gaining publicity in mainstream media. The ENA member newspapers advertise their Press Council as the only self-regulation institution in Estonia and advise people to send complaints only to this press council. At the request of the Newspaper Association, none of the media connected with the ENA Press Council should publish anything that comes from the ASN (Lauk 2009). The only newspaper that publishes ASN's materials and also media critical statements and articles from other sources is Estonia's national cultural weekly *Sirp* (*Sickle*). As the main cultural publication, *Sirp* is subsidized by the State and has no profit interests. In early 2009, the newspaper withdrew from the Newspaper Association declaring that the Association is too business-oriented and does not stand for either good journalism or professionalism. In response, a story about *Sirp's* editor-in-chief was published in the largest news portal *Delfi*, in which his educational background and journalistic competence were heavily and unfairly attacked.

The media that receive the ASN's adjudications respond by saying that they only recognize the Newspaper Association's press council and feel no commitment to the ASN's decisions. Journalists who work in the media related to the Newspaper Association are strongly recommended not to respond to the requests from the ASN. Journalists appear to be between the hammer and the anvil: as the employees of the media that recognizes the ENA's press council they should ignore the ASN. But as the members of the Journalists' Union they should recognize the ASN as a self-regulation body.

The Estonian press has never had ombudsman. The ombudsman's institution (called Ethical Advisor) was established by law in 2007 for the Estonian National Broadcasting Company. The law ensures the Advisor's independence from the broadcasting management; the position is accountable directly to the Broadcasting Council. The functions

of the Advisor include monitoring the programmes of the National Broadcasting, make suggestions for solving quality and ethics problems, and dealing with complaints from the audience. The purpose of this position is also to make National Broadcasting's programming policies and activities more transparent for the public. The Advisor has initiated and leads a monthly programme *Meediatund (Media Hour)* on public radio, giving reports about the work entailed in dealing with complaints and conducts discussions and interviews with media executives and experts. The incumbent Advisor, however, tends to bypass the problems of the National Broadcasting and focuses more on the other issues, mainly concerning the media in general and seems keen to avoid bringing any ethical issues of public broadcasting to the public agenda. When public broadcasting attracts external criticism, the Advisor's answers are both defensive and counter-critical. In fact, the Advisor appears to fulfil the PR functions for the National Broadcasting. According to the rules of dealing with the complaints in the National Broadcasting, an individual who is not satisfied with the decision made by the Advisor can further complain to the ENA Press Council, of which the Advisor is also a member.

6. Media self-regulation in Lithuania

In Lithuania, a system exists that represents co-regulation rather than self-regulation. The *Law on the Provision of Information to the Public* sets up regulative bodies as well as self-regulation bodies and determines their composition and functions. The same Law sets up the institution of an Inspector of Journalist Ethics (Ombudsman) appointed by the Parliament, whose office observes how the *Law on Provision of Information to the Public* is adhered to and also regularly monitors media.

The Ethics Commission of Journalists and Publishers consists of 12 members who are appointed by three non-governmental organizations, two journalists' organizations and seven media publishers' and producers' organizations. The Commission is funded from the Support Fund for Print and Broadcasting, while the Inspector is funded by the State. Both, the Commission and the Inspector deal with complaints on the basis of the Code of Ethics, and co-operate in dealing with complicated cases. Unlike the Commission, the Inspector also has certain punitive powers: he can publicize the names of media companies, which violate the law; under administrative law he can levy fines on newspapers or refer cases to law enforcement authorities for criminal prosecution (Harro-Loit – Balčytienė 2005: 35).

Unlike Estonian press councils, the Lithuanian Ethics Commission also monitors and supervises how public information producers and disseminators observe the requirements established by laws and other legal acts regarding the press content and public presentation of audio-visual production (Balčytienė 2006:100). The media, however, very often ignore the decisions of the Commission. Furthermore, there have been cases, in which the media violated the Code on a daily basis, but such violations rarely led to any sanctions. Many cases do not receive attention simply because the Ethics Commission and the Inspector do not examine the violations on their own initiative, but only deal with cases on which they receive complaints (Balčytienė 2006:103).

7. Latvia: existing concept, missing practice

Market orientation seems to override the accountability concept in the Latvian media environment. Pressures of the market and the commercialization have a strong impact on how journalists understand their professional functions. More often than not, they

perceive their audiences as various groups of consumers whom to sell sensation, advertisements and cheaply produced information. According to a 2008 survey by the public opinion research centre SKDS, more than half of the respondents¹⁰ answered that “due to economic interests, the information offered by the media tends to be one-sided” and almost as many agreed that “as a result of political inclinations, information provided by the media tends to be tendentious” (Šulmane – Berzinš 2009: 173). The code of ethics accepted by the Latvian Journalists’ Union has no effect whatsoever and the Ethics Council, established by the Union in 2007 seems to exist only formally. Some news organizations, however, have introduced internal codes of conduct (*Diena*, *Latvijas Avīze*, *LTV News Agency*), which in some newspapers are bound to the labour contracts. While journalists in Latvia do not have an ethical code that would be commonly recognized, they do feel accountable only to their own media organizations and management (Šulmane – Berzinš 2009). On the other hand, Latvian researchers Šulmane and Berzinš claim:

Some media activities that are intended mostly for reputation consolidation and successful business can simultaneously create a link with the public, and actually help some social groups or create the image of a responsible media organization. Here we can mention the newspaper *Diena* [...].

(Šulmane – Berzinš 2009: 173–174)

8. Civic initiatives and critical media literacy

The European audiovisual directive emphasizes the importance of civic initiatives and media literacy as supporting factors of self-regulation and protecting people “from harmful or offensive material”. (AVMSD 2007, art. 37). In countries with developed political and civic cultures, influential NGOs exist that regularly monitor and analyse media performance. In the Baltic countries, the voices of informal initiatives (such as NGOs or private blogs) are still too weak to be heard and taken into consideration by the media. The earliest attempt of a media critical online outlet was made in Estonia in the early 2000s by the Journalists’ Union. The publication called *Klopper (Beater)*, however, did not survive, as it did not find much support and contributions from among journalists. Journalists were, and are, very cautious in criticizing their own professional environment in writing since employers might interpret their actions as disloyalty.

In Latvia, the non-governmental organization *Providus* and the market research company *TNS* are involved in assessing the advertising activities.

[Providus and TNS] monitor and examine the observance of prescribed volumes of political advertisements and possible hidden advertisements. The evaluation and monitoring of media activities takes place at all universities that offer media studies.

(Šulmane – Berzinš 2009: 174)

The daily *Diena* publishes comments and blogs of media experts on its online version (*ibid*).

¹⁰ Using Latvia’s Population Register, a representative sample of 1000 residents aged 18 to 74 was created. The sample is representative of Latvia’s inhabitants as a whole in this age group according to gender, age, ethnicity and place of residence (Latvia: Human Development Report 2008/2009: 182).

In Lithuania, two initiatives have appeared for analysing the quality of journalism: *Projektas Ž* (*Project J* – the J is for journalism) and *Atvirai ir garbingai apie inisklaidą* (*Openly and fairly about the media*) (Balčytienė – Harro-Loit 2009: 526). Attempts were also made in Lithuania to organize an association of online news providers and to draft an online ethics code, but to date without success. (ibid) In the blogosphere, several weblogs of journalists occasionally critically analyse media issues, but these are not widely known and are thus, unable to maintain a larger critical debate. In Latvia, the only space where the latest media criticism is regularly published is the portal *www.politika.lv*, which publishes the results of media studies as well as reviews and comments on these studies. The portal also publishes articles and comments on questionable media practices and various quality problems in the Latvian media (Šulmane – Berzinš 2009: 174).

The most popular form of the public's participation in the critical monitoring of the media is the online '*commentarium*' – an option for sending immediate online comments to articles and broadcasts. Journalists usually follow the comments to pick up fresh ideas and story hints and get feedback to their own stories. As commenting is completely unregulated and anonymous, it is open to abuse by indecent and offensive language use, racism and defamation. Estonian online media introduced a 'notice-and-take-down' policy (readers report on bad comments to the editor, who removes the relevant comments), but this has been relatively inefficient. A social campaign, calling people to comment decently has been launched in all three Baltic countries ("Think Before You Post!" in Latvia, "Don't Swear!" in both Estonia and Lithuania).

Among the Baltic States, Estonia is the only one where elements of critical media literacy are included in the curricula of secondary education. The Estonian Association of Media Educators was established to help schoolteachers to obtain the necessary know-how and teaching materials. In Lithuania, media literacy education is at the early stage of development, but its progress is quite rapid. Alongside information literacy programmes, several media literacy projects have also been introduced in Lithuanian secondary schools (Duoblienė 2010:13). In Latvia, some initiatives have been taken for launching media literacy projects with the help of the *Nordplus* Framework Programme¹¹. The conclusion from the aforementioned is that a critical mass of media competent public, who would be able to actively participate in media critical debate does not yet exist in the Baltic countries. On the other hand, the media organizations are not motivated to develop the debates. As Balčytienė argues, "they are suspicious of outside intervention in their field (such as public discussion or academic criticism)" (2009a: 45). The public and civil society are "kept at a distance from any discussion of the problems which the [electronic] media face" (Brikše 2010: 74). A similar situation is reflected in Latvia's 2008 survey of SKDS (see footnote 9), where 37 per cent of the respondents agreed to the statement that "Latvia's journalists do not take into account criticism of their work" (Šulmane – Berzinš 2009: 175).

9. Discussion and conclusions

In the Baltic countries, of the aforementioned six factors, the first three are really effective, which all favour the market oriented model. The existing forms of self and co-regulation, however, seem to be more simulations of accountability mechanisms than influential means of 'watching the watchdog'. The situation in the Baltic media corresponds to Andrei Richter's statement:

11 *Nordplus* is the Nordic Council of Ministers' most important programme in the area of lifelong learning <http://www.nordplusonline.org/>

Ethical charters and conventions are generally drawn up, adopted and signed by media proprietors and executives rather than journalists. The top people are de-facto supplanting professional with corporate solidarity and ethics, and asking the rank and file to reconcile themselves to an often highly conditional form of 'in-house-censorship' in order to avert pressure from the state.

(Richter 2007: 297)

Self-regulation mechanisms set up and controlled by the media elite, serve their economic and political interests and not the public interest. Furthermore, "the Baltic media operate under their own market-focused logic, which favours media empire building and cheap production" (Balčytienė 2009a: 45). As a result, the power of the media increases to an extent where they begin to control what the public and the government say about the media and block unfavourable voices. This process could be called 'reversed censorship' – censorship that is not established to limit what the media say, but established by the media to limit what society says. Just as the function of censorship is to propagate the ideology and support the power of the power-holders, the ideology of a free media has been turned into a means of increasing the power of the media. Voices demanding accountability or criticizing the media for irresponsible performance are suppressed or accused of attempting to restrict the freedom of speech. Different opinions are not tolerated nor are suggestions for stricter regulation. News about the media is mainly good news (e.g. growth in media revenues) or the news about temporary failures (e.g. the closure due to bankruptcy of an Estonian Russian-language daily in spring 2009, was presented as 'a temporary closure'). The 'negative' adjudications of the Press Councils are publicized in an unnoticeable way and not published online at all.

The Baltic countries (as well as other new democracies) "jumped into the free market model practically unprepared in practices of professionalism and accountability" (Balčytienė 2009b: 136). The establishment of a liberal market model was not accompanied by an equally rapid development of professionalism and adoption of accountability principles and practices. (ibid) A critical public debate about the media is still missing and favourable conditions for one to develop do not exist, as the media do not tolerate any external criticism. Civic culture in these countries is not sufficiently developed to be able to 'watch the watchdog'; there is no tradition of media literacy or public scrutiny of the media.

Legal practises do not stimulate the media to invest in the quality of journalism and they do not support accountability. Media organizations, for example, have practically no need to consider the possibilities of court cases with penalties for moral damages.

The Baltic example clearly demonstrates that a shift towards market liberalization through relaxing legal regulation, with an expectation that "competition between commercial providers of media content will serve social needs" does not work for small and highly concentrated media markets (Hallin 2009:102). Furthermore, it results in unwanted consequences in societies where media accountability mechanisms are not effective, professional ideology is weak and civic culture is underdeveloped.

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