

Institucija ombudsmena/ombudsmana  
za ljudska prava Bosne i Hercegovine



Институција омбудсмeна/омбудсмана  
за људска права Босне и Херцеговине

***Recommendations to  
improve the protection of  
the children's right to  
privacy in cases of  
violations by the B-H media***

with support of



Save the Children



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Banja Luka, November 2012

*The opinions and views expressed in this report are those of the Institution of B-H Human Rights Ombudsman/Ombudsmen and do not necessarily represent the views of Save the Children*

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# FOREWORD

Starting from the basic principles of human rights that all human beings are free and equal in dignity and human rights, with full observance of all the principles of the UN Convention on the Rights of the Child, the Human Rights Ombudsmen of Bosnia and Herzegovina deem necessary to analyze and evaluate whether the media in Bosnia and Herzegovina violate the children's right to privacy.

In collaboration with Save the Children, within the project "Strengthening the capacity of the Department for Monitoring of Children's Rights" of the Institution of Human Rights Ombudsmen of Bosnia and Herzegovina, the Ombudsmen prepared an analysis with *Recommendations to improve the protection of the children's right to privacy in cases of violations by the B-H media, especially the rights of child victims of sexual violence*.

Ombudsmen are particularly committed to the fact that our country must implement, as much as possible, the special provisions and obligatory articles of the UN Convention on the Rights of a Child, thus providing the society as a whole with a tremendous hope for the future and placing children's rights at the threshold of the global struggle for human rights. Growing up in an environment where children's rights are respected, the environment in which the child's voice is heard and acknowledged, where there is respect for the best interests of a child, is a good basis for the development of children and happy and responsible citizens who will demand their rights, but at the same time fulfill their obligations towards the society and the state.

Ombudsmen's recommendations are the result of numerous activities conducted during the period from June to the end of October 2012, including discussions with representatives of non-governmental organizations, psychologists and social workers, professors from the faculties of journalism from the whole territory of Bosnia and Herzegovina, representatives of the Communications Regulatory Agency of Bosnia and Herzegovina, monitoring of the print and online media in Bosnia and Herzegovina, and conducting a survey with journalists.

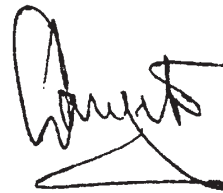
Ombudsmen wish to thank everyone who in any way participated in the preparation of this report, particularly the journalists who took part in the survey, as well as Mrs. Nada Uletilović (Zdravo da ste), Mrs. Aleksandra Ostojic-Matic (Mediaplan), Mrs. Edita Pršić (Local Democracy Foundation), Mrs. Jasna Sofović (SOS Children's Village), Mrs. Berina Hamzić (Our Children), Mr. Bojan Pavlovic (Infohouse), Mrs. Dragana Dardic (Helsinki Citizens' Assembly), Mr. Jovan Radovanovic (Association of families with four or more children), Mrs. Stela Popovic (Association of families with four or more children), Mrs. Gordana Ilic (Menerali Association), Mrs. Zorica Blagojevic (New Generation), Mrs. Mirna Stankovic Lukovic (B-H Press Council), Mrs. Sanja Dokic-Mrsa (CRA), Mrs. Natasa Milic-Jovanovic (CRA), doc. Ljubomir Zuber (Department of Journalism, Faculty of Philosophy, University of East Sarajevo), doc. Dr. Ilija Musa (Journalism Study Group, Faculty of Philosophy, University of Mostar), Mr. Slobodan Pešević (B-H Journalists Association), and social workers and psychologists whose names will not be mentioned because the surveys conducted with them were anonymous.

Finally, Ombudsmen note that the aim of this report is to attempt to point out to all who are involved in this issue the need to protect the children's rights to privacy, which is always above the public's right to information, without trying to analyze the work of any media in B-H individually.

Ombudsmen of Bosnia and Herzegovina



Nives Jukić



Ljubomir Sandić



Jasminka Džumhur



# I INTRODUCTION

Department for monitoring of children's rights at the Institution of B-H Human Rights Ombudsman/Ombudsmen assumed its responsibilities on 01 June 2009. Since our establishment, we have often, in our work and in working with clients, faced problems associated with media coverage of children and complaints regarding the style of such reporting, whether it is about children who are victims of some form of violence or abuse or child offenders.

The importance of the media and its ability to impact both children and adults has to be acknowledged. While preparing this analysis, we have tried to point out all the positive aspects and the contribution of the media in Bosnia and Herzegovina to promotion and protection of the children's rights. Namely, one shall not forget or deny the contribution of the media and particularly the public raising of numerous issues, where the problems in matter would have remained far beyond the reach of law and the public if not tackled by the media, publicly presented and those responsible called upon their accountability. On the other hand, we have witnessed numerous cases of violations of children's rights and children's dignity.

What is the image of children in the media today? That question has no simple answer. However, aware that the media undoubtedly has a large impact on forming of a public opinion and is able to participate in setting standards for the protection of children and their rights, Ombudsmen of Bosnia and Herzegovina aim to use this analysis to emphasize both the importance of the media, and the fact that it is even more important how the media use their influence. They also wish to point out that the media is inevitably bound to different aspects of a child's life, starting from protection and violations of the privacy rights, children's participation in the media making, to the presence of potentially harmful content in the media.

While preparing the Ombudsmen Report on Implementation of the Convention on the Rights of the Child in Bosnia and Herzegovina, which was submitted and presented to the UN Committee on the Rights of the Child, it was clearly established that the children's right to privacy is jeopardized and violated by the media. This right is as important as all the other rights under the Convention on the Rights of the Child. Violation of this right was the topic of numerous discussions, and the experts have often emphasized the lack of positive content for children in the media, which, according to them, generally makes a stronger impact on children than the negative content. The children are very rarely written of/referred to as subjects, or persons entitled to different rights, such as the right to participation and expression of their own opinions. More often the children are written of/referred to in the light of cases of threat to individual children and the need for their protection.

There is the desire and the intent of the Ombudsmen to change the situation and existing relations in favor of children, and try to find ways to emphasize in the media the importance of children's rights, in order to further our understanding of the media-posed jeopardies regarding those rights, and to have both the professional and wider public, especially journalists, as well as parents, learn about the true scope of the problem and recognize the importance of protecting children's rights.

Often the media portrays the children in sensationalist manner, especially when reporting on events involving children as victims. In doing so, unnecessary information regarding the family circumstances is often disclosed, as well as the data on children's health status or improper assessments of the children's character and conduct, directly harming the development of a child. In addition to that, we often note reckless and irresponsible attitude of reporters and editors regarding the obligation to protect the child's identity. Without even thinking about the negative consequences, the media disclose the full names and photographs of children and reveal their identity by disclosing full names of the parents, brothers, sisters and places they live in. Journalists justify their behavior by the public interest while neglecting the fact that the public's right to information cannot be above the right to protect the privacy of the child. Inappropriate exposure in the media can further upset the children and have a negative impact on their development, cause adverse reactions of the community, disclose children's privacy to everyone, expose them to traumatizing scrutiny, unpleasant comments and possibly jeopardize their safety. Internet introduces new risks but also responsibilities in protection of children's privacy. Internet websites, forums, blogs and other forms of publicly available electronic communication are increasingly emerging as new ways of compromising the privacy and other rights of children. They are becoming the new media for disclosure of personal data, photos and intimacy of children, thus running the risk of electronic or other types of abuse.

There are different psychological mechanisms and processes triggered by the media coverage of children. Media reporting affects the child's self-image (self-esteem and self-respect), cognitive processes (perception of self, feeling of own competence, locus of control and attribution style), amount of stress suffered and social consequences such as isolation and stigmatization by the peers or adults in the child's surroundings. One of the child's potential reactions to the media coverage that is not affirmative of his/her successes and achievements is that the child perceives itself as incompetent and thus develops a negative self-image. Such a changed self-image can be particularly risky in time of adolescent development when the developmental crises are specifically associated with the crises of identity. When asked whether the disclosure of the identity may be a stressful experience for the child, the answer may be in the fact that for some children, a serious source of stress may be a stigma of their physical, racial, religious, ethnic, or other characteristics.

The goal of this analysis with **Recommendations to improve the protection of the children's right to privacy in cases of violations by the B-H media**, especially children victims of sexual violence, is to identify the causes and reasons for frequent violations of children's rights to privacy by the media, with the emphasis on the gaps in the legal/judicial system and the lack of adequate mechanisms to sanction the media for violations of the children's rights, with proposals to take adequate measures for the protection of children's rights to privacy.

Whether the Institution of Ombudsmen was successful in this is something that we expect the feedback about soon, from the responsible bodies, parents, children, but also the journalists in Bosnia and Herzegovina.

## II OBJECTIVES AND METHODOLOGY OF THE RESEARCH

The overall objective of the research on the state of media violations of children's right to privacy in B-H was to establish whether and to what extent the media in B-H violate that right.

By conducting this research with specifically set goals we sought to identify the manner of reporting on children in the media in general, with special emphasis on reporting on children victims of sexual abuse, as well as the level of knowledge of media representatives on the Convention on the Rights of the Child and the Journalists' Code, and the extent to which the non-governmental sector is active and familiar with the situation in this area, and, finally, to examine the opinions of experts/professionals.

During the implementation of the entire project, taken into account were the available resources on international and regional research and studies on this subject, the data provided by the relevant institutions (the B-H Press Council, CRA), as well as experience and knowledge of local and international non-governmental organizations and professionals/experts employed by the centers for social work or other social care facilities. In addition to the above, the research also included the academic community and the experts from the faculties of journalism.

Content analysis of articles and reports on children, published by most widely read and popular print, broadcast and online media in B-H was conducted from 11 June to 11 July 2012. Direct anonymous surveys were used to interview the journalists of print, broadcast and online media in B-H and obtain in this way information on their attitudes concerning the reporting on children, as well as their familiarity with the Convention and the manner of reporting. The work with the representatives of non-governmental organizations was conducted within the focus groups (two focus groups, Sarajevo and Banja Luka), while the staff of the Department for monitoring of children's rights, working with experts on protection of the rights of children, used a qualitative research method of a semi-structured interview. A consultative/working meeting was organized with the representatives of the Press Council, CRA and the professors.

### III PREVIOUS EXPERIENCES AND ACTIVITIES OF OMBUDSMEN IN THE AREA OF MEDIA REPORTING ON CHILDREN IN GENERAL

The Institution of Ombudsmen has implemented a project in 2009, where the media content published by the print and electronic media on issues relevant and important for the children was monitored and analyzed during the period of two months.

The results of this monitoring and analysis indicate that the electronic media and the TV stations in Bosnia and Herzegovina provide due attention to the children and children's rights and needs only through the modest form of educational and entertainment content through the so-called educational and children's segments in their programs. As far as the most dominant, news segment goes, this population is, unfortunately, only featured in the "crimes" section. Events where children are the "main actors" are rarely featured in news programs broadcasted by the TV stations, such as various news shows and the daily news. All these data are the output of the monitoring of, primarily, most influential news programs of the six most important TV stations in B-H.

Content of the news programs (news, daily news) makes it obvious that the children are given the media space only in the "crimes" segments, specifically during the initial minutes of the shows, and the analysis offers specific examples of that manner of reporting. Dominant were the stories on children in the news programs, without any attempts of the television journalists to conduct a more thorough research, and point out the problems and potential solutions. For an example, in one of the cases, the news states: "This case warns of the lack of care of the responsible institutions" and that is where the story ends. The identities of underage children are frequently disclosed in front of the TV cameras, and footage of minors whose rights are violated are publicly disclosed, also by the public broadcasting services.

The most drastic example from that period was the case of a family protesting for four days in front of the building of the B-H state institutions, sleeping on the grass under a makeshift tent. The family includes ten children, surviving on the income of 230 KM. In this case, despite the warnings of the responsible social work services and those responsible at the Ministry for Human Rights and Refugees of B-H, the media justified the father's abuse of his own children, one of whom suffers from leukemia, the other from epilepsy. None of the media representatives warned about this abuse and some of them even joined the support campaign, urging the citizens to provide financial and moral assistance to the unfortunate family, seeking the "protection of its rights". The reports and commentaries of the media supported the father who brought his children to the street to "seek their rights", and the most prominent editors got involved and indirectly engaged themselves in manipulations over the ill children, broadcasting footage featuring children's faces and statements

where the unfortunate children were to help the father regain the job he previously temporarily lost. Ombudsmen question whether the media, after some time has passed, dealt with the problems of that same family ever again, whether they ever looked into the life of that family now, and how they now “protect and exercise their rights”. The most commonly used forms of reporting in TV programs are classic reports and short news, where the reporters never attempt to research the problems and continuously follow the stories.

The general conclusion of the Institution of Ombudsmen Monitoring from 2009 is that the electronic media, the most powerful ones – television, only report on children and children's rights on the level of news stories, mostly in cases of incidents, homicides, injuries and other dramatic news situations, which is the only space the reports on children have in the television news programs.

Children are the “main actors” of the “crimes” segment in programs of the most relevant TV stations in the country, whose signal can be followed by the majority of population of B-H. Positive and good developments, actions and humanitarian activities in most cases get no coverage in children's television content. The role of the television as a medium in promoting the children's rights, researching the most basic problems children encounter in education, delinquency, physical and sexual abuse, exploitation, drug addiction and alcoholism, is marginal and, in most cases, related to the coverage of specific scandalous news, shocking cases or cases disturbing the public, mostly without any inventiveness or professional approach.

The Institution of Ombudsmen informed the relevant media houses and representatives of the responsible bodies (B-H Parliament, B-H Presidency, entity parliaments) about the results of the 2009 analysis through the annual report on the activities of the Institution of Ombudsmen for 2009. Given the authority and mandate of the Institution of Ombudsmen, the Ombudsmen wish to once again, through this analysis, point out the problems present in this area and initiate changes.

We remind you that the Ombudsmen conducted the Analysis of the state of compliance of the B-H legislation with the UN Convention on the Rights of the Child, taking into account the recommendations of the UN Committee on the Rights of the Child sent to government. In the said document the Ombudsmen expressed their opinion that the responsible authorities in B-H have undertaken certain activities aiming to protect the children's privacy, particularly in criminal and civil proceedings, however, not enough was done in the area of protection of children's right to privacy through the media. The need for sensationalist media reports, supported by the lack of a strict control mechanism, significantly contributes to maintaining of such situation. Undoubtedly significant are the efforts of the Communications Regulatory Agency and the Press Council in B-H to act in this segment, but these institutions always seem to react after a violation of privacy of a child takes place, and sanctions for violators are extremely moderate and have no preventive character in terms of preventing such violations from reoccurring.

In 2011, Ombudsmen sent for the first time a Report/Brief on the application of the UN Convention on the Rights of the Child to the UN Committee on the Rights of the Child, covering the period from the date of establishment of the Department for Protection of Children's Rights until the end of 2011. The report was prepared in cooperation and consultation with the relevant non-governmental organizations in the area of protection of children's rights in Bosnia and Herzegovina, and that is something Ombudsmen are very proud of. During the consultative meetings with representatives of non-governmental organizations, the stance was clearly taken that the children's right to privacy is

violated by the B-H media. The Brief was presented to the members of the Committee in February 2012, along with representatives of non-governmental organizations and UNICEF B-H. One of the proposals of the Ombudsmen, among other issues, is for the Committee to recommend to the state to create an appropriate legal and regulatory framework for cases of reporting on children and cases where children appear in advertisements and marketing programs, whether they are offenders or victims of criminal acts or other forms of ill-treatment, in order to provide greater protection of their privacy rights and sanction the behavior and actions of the media detrimental to the children.

In addition, the Ombudsmen constantly issue press releases on their Web site, inviting the media to protect children's rights to privacy and to always have in mind the best interests of a child. Specifically, this year, the Ombudsman issued a statement on 06 February 2012, expressing concern that not enough effective measures are undertaken to protect the identity of children in the media when they are victims of sexual abuse or any other form of violence. Disregarding such measures, the media fails to act in accordance with the Article 3 of the Convention on the Rights of the Child, which defines the duty to protect the best interests of children, where the final result is the impact on preservation of the dignity and personality of a child. Although in most cases the child's full name is not disclosed, only the initials, their identity is often indirectly revealed by disclosure of other data that describe, classify or mark the child in a certain way, where the privacy of a child's life is violated, and its reputation and honor attacked. Ombudsmen once again re-emphasized the importance and the role of the media in protection of children, especially when reporting on cases where children are victims. They've urged the media to report with due care and caution and responsibility to observe all the possible consequences for the child or its family that may be caused by unprofessional reporting on children. Dignity and the rights of every child must be respected, as well as the right to privacy, and the identity of the child must be protected, whether the child is the perpetrator or the victim of crime, or someone who is in a state of severe need.

## IV INDIVIDUAL CASES

Institution of Human Rights Ombudsmen of Bosnia and Herzegovina was addressed by a center for social work from a small municipality, expressing concern regarding the manner in which the media has been reporting on a case of sexual abuse of an underage girl on the territory of that municipality. The print media familiarized the general public with this case of domestic violence, incest committed by a father of an underage daughter, lasting for two years. In this case, as stated, immediately after the case was disclosed the center reacted and took all the necessary actions and measures in accordance with the law and the options available. However, closely following the reports of different print media, it was noted that number of sensitive data was reported on, most of which was false and creating adverse effect, especially in this specific case, because the victim is a child, a computer literate child, and she kept seeing the articles related to this unfortunate event on different portals. If the media reveals the location where the violation happened, and the name, the initials or the age of the perpetrator, that is quite sufficient to compromise the protection of the identity and interests of a minor, especially if we take into account the fact that it is almost impossible to preserve anonymity in such small towns. In this case, the print media have been getting information from different sources, and "grafting" of such inaccurate information caused additional stress to the juvenile victim of sexual violence, endangering the series of activities initiated to rehabilitate the consequences of years of violence against the child. This form of liberty the print media take when presenting the data, regardless of the source of information, leads directly to secondary victimization of a victim and is characterized by sensationalist approach, not the protection of the interests of a child! The Institution of Ombudsmen informed in this case the competent guardianship authority with the fact that the resolution of the problem is to be addressed in the future, that the request for intervention was taken seriously and estimated worthy of further intervention of the Ombudsmen.

The Institution of Ombudsmen provides very often legal advice to clients, regarding the protection of the children's right to privacy, in cases of violation by the media. In such cases the rights have already been violated, and the daily engagement pointed out the need to identify the problems and causes of such violations, to minimize in the future the occurrences of extreme violations of children's rights to privacy. In addition, this issue deserves attention and reaction of the responsible authorities, due to its severe consequences on physical and mental development of a child. Parents frequently contact us over the phone, requesting legal advice and assistance, they send questions by e-mail or visit the offices of the Institution of Ombudsmen in Banja Luka, Sarajevo, Brcko, Mostar and Livno, and a number of complaints and cases were also registered by other departments at Ombudsmen.

The Institution of Ombudsmen has, following the complaint of an association, conducted an investigative procedure regarding the writing of an internet portal. The problem was related to the beggars, and a case was registered at the Department for the Elimination of all Forms of Discrimination (Ž-BL-06-610/11). In fact, the racist attitudes that were publicly shared on the mentioned portal, addressed the Roma people, especially children. Some of the visitors' comments were numerous inflammatory and racist statements, such as: "police, arrest the Gypsies", "remove them from the street, "they will never get a job", "throw them into the police van", "kick them", and other similar statements of inappropriate content, which clearly indicate the hatred and animosity

towards this ethnic minority, and a violation of the principle of equal treatment and non-discrimination.

Bearing in mind the mentioned provisions of the B-H Law on Prohibition of Discrimination<sup>1</sup>, the Ombudsmen recommended that the editor of the Internet portal (P-15/12) immediately order the administrator of the internet forum to remove the mentioned comments or censor the part related to discriminatory attitude towards the children, as well as to remove comments that call for violence against the Roma children. The recommendation of the Ombudsmen was acted upon.

The Institution of Ombudsmen was addressed by a mother of a child offender, who expressed her dissatisfaction with the media coverage of the crime and presentation of then-relevant information, which eventually was confirmed to be false. However, the damage was already done and potential release of that information, after the time has passed, in form of démenti or the like, would have no positive effect on creating a realistic picture of the entire event. The parents' pleas, aside from provision of legal advice, were focused on the need to improve things in the future, to introduce more effective sanctions against certain media, in order to avoid the same or similar mistakes from happening again.

The Ombudsmen and the staff of the Department have often witnessed that the parents of children with disabilities in psycho-physical development/special needs or families in need, address the media, thinking that will help them get the attention of the responsible bodies and so at least in the short term solve their problem. It is such situations that lead us to the image of the child in the media in B-H, in other words, the stereotypes and prejudices of "*poor children*". For example, there was a case when a parent of a boy in a wheelchair, who has appeared in various print and electronic media, made it possible that a special ramp to take the wheelchair to the second floor was built in the school attended by their child. The Ombudsmen note that, regardless of the motives of the parents, such cases violate the child's right to privacy. So, it happens often that the journalists who disclose the cases of violation of the rights of the children violate those same rights themselves.

In addition to stereotypes, such as "*poor child*", we also encounter the one of a "*terrible child*", the offender, a bully, someone inconsiderate, rude, dangerous to other children and society. In one case, where the parents asked the Ombudsmen for assistance, journalists made the child appear even worse than alleged – the child was a suspect and later charged with a criminal offense of causing general danger - because it was a child of the owner of a well-known company. In this case, the identity of the child was not released, but it was clearly stated who the child's parent was and what he did for living.

And inevitably, it is necessary to note the phenomenon of the so-called "*classy and beautiful children*" where those lovely children are featured in advertising campaigns, to encourage readers and viewers to purchase, which in the opinion of the Ombudsmen, unfortunately, is exploitation of children in advertising and marketing. This problem can lead to further exposure of a child to potentially harmful media content.

The Ombudsmen will use this opportunity to share a few examples from their practice which, thanks to the media, were resolved by the authorities, primarily because of the public indignation.

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<sup>1</sup> BiH Official Gazette, No. 59/09



The Institution of Ombudsmen learned about the problems of a child with disabilities in psycho-physical development/special needs through a print media outlet. The Department staff had repeatedly contacted the school, and a school visit was carried out, including the conversation with the girl and her mother. The child attends regular classes and, in the opinion of the Ombudsmen, the inclusion has fully come to life in this small local school, where the teachers are doing everything in their power to make it possible for this child to successfully attend the classes. For example, the donations helped construct the separate toilet for the child, the wheelchair ramp, the child always attends the classes on the ground floor etc. After the facts were established, including the fact that the child has and enjoys the rights to social and child protection, the Ombudsmen, in cooperation with the responsible health insurance fund and the Association of Paraplegics, provided that the child and her mother attend the approved 21-day spa treatment free of any charge. With the assistance of the Association of Paraplegics, the child received a new wheelchair. All this was done in order to provide the child with the access to greater rights to health care and quality health services. The same print media outlet has published all the feedback, which was a praise-worthy follow-up.

There were instances where the media influenced the relevant institutions to familiarize themselves with the extreme cases of violation of children's rights, such as corporal punishment. In fact, according to one print media, there was a case of two children suffering years of physical violence committed by the father and stepmother in a rural, conservative environment. The bullying was only once sanctioned as a misdemeanor and that seemed to be the end of that story. Due to media reports, the Institution of Ombudsmen and the other authorities – prosecution and the social work service - became involved in protection of the children's rights, which immediately resulted in the placement of children in social care and detention of the suspects.

## V LEGAL AND INSTITUTIONAL FRAMEWORK IN B-H

For an understanding of the existing institutional arrangements, it should be noted that in Bosnia and Herzegovina there is the Press Council, a self-regulatory body for print and online media, as well as the Communications Regulatory Agency of Bosnia and Herzegovina.

**The Press Council in B-H**, as defined in the Article 3 of its Statute, is a “non-governmental, non-political and non-profit organization that, based on the principle of free and voluntary access to membership of the Association, brings together its members to achieve the goals and activities defined by the Statute.” Council acts as a mediator between the dissatisfied readers and the print and online media, oversees the implementation of the Press and Online Media Code of B-H, promotes professional standards in print and online media, protects the public from unprofessional and manipulative journalistic reporting, and on the other hand protects the media from political, economic, and all other types of pressure threatening the freedom of information and the freedom of media. The Council consists of the Association of Journalists of B-H, the Society of Journalists of B-H, the Association of the Croat Journalists of B-H and the Association of Journalists of Republika Srpska.

**The Communications Regulatory Agency of Bosnia and Herzegovina** is responsible for the regulation of broadcasting and public telecommunications networks and services, including licensing, pricing, interconnection, and defining the basic conditions for the provision of common and international communication means, as well as for planning, coordinating, allocating and assigning the radio frequency spectrum. In addition, the CRA is responsible for protection of copyrights and other intellectual property rights, as well as personal data and privacy, along with the Council of Ministers of B-H.

Regarding the legislative/regulatory framework, the Ombudsmen are of the opinion that the field of electronic media is well regulated in comparison to the other media, especially due to adoption of by-laws that came into effect at the beginning of 2012. On the basis of the Law on Communications, the CRA issued at the end of 2011 the two codes applied from the beginning of 2012: the Code on audio-visual media services and radio media services and the Code on Commercial Communications. The Code on audio-visual media services and radio media services defines, in Articles 19 and 21, the participation of minors in the content of the media service providers, as well as the layout and the labeling of the content, in order to protect the minors. Also, Article 6 of the Code on Commercial Communications regulates the position of minors in commercial programs. The opinion of the Ombudsmen is that the adoption of this by-law significantly improves the situation in protection of children in terms of advertising for commercial purposes. Despite the existence of a satisfactory legislative/legal framework, unfortunately, the Ombudsmen state that the children's rights to privacy are still being violated in the electronic media. That fact is additionally emphasized by the addresses of the non-governmental organizations, political parties, parents, but also the representatives of the responsible institutions to the Institution of Ombudsmen. Therefore, the Ombudsmen wish to use this opportunity to inform the public about the existence of mechanisms of protection in cases when the broadcasters violate or threaten the right to privacy.

When it comes to print and online media in Bosnia and Herzegovina, there is the Print and Online Media Code that is morally obligatory for journalists, editors, owners and publishers of newspapers and periodicals. The Code stipulates that journalists are bound to be extremely careful in reporting, to respect ethical norms and the UN Convention on the Rights of the Child, to protect the identity of the children in cases in which the public is not involved, and not interview or photograph children under the age of 15, on matters relating to the child's family, in the absence or without the permission of a parent or guardian. The Code stipulates that journalists should exercise caution and responsibility in identifying children younger than 15 years of age, in cases where such children are the victims of crime.

During the preparation of this report identified were the deficiencies in control over the work of print and online media. The reasons for this are that the Press Council in B-H is a non-governmental organization, without a mandate to impose adequate sanctions, and the Press and Online Media Code is only morally binding.

The minimum international standard that the state is obliged to provide in exercising and protection of children's rights in general is defined by the UN Convention on the Rights of the Child. Articles 13, 16, 17 and 40, among others, stipulate that children have the right to freedom of expression, which includes seeking, receiving and giving information and ideas of all kinds, and that no child shall be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence. States should recognize the important function of the mass media and guarantee to the children the access to information and material from a diversity of national and international sources, particularly those aimed at improving the child's social, spiritual and moral well-being and physical and mental health.

Article 40 Paragraph 2 Item VII of the Convention stipulates that the States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society. To this end, States Parties shall in particular ensure that every child alleged as or accused of having infringed the penal law has at least the guarantees that his or her privacy will be fully respected at all stages of the proceedings.

Article 7 of the Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings in Republika Srpska and the Law on Protection and Treatment of Children and Juveniles in Brcko District of B-H stipulate that the right to privacy of a juvenile offender must be respected at all stages of the proceedings, and the media is not to publish information that reveals the identity of the minor. Until the publication of this report, this law has not been enacted in FB-H.

It is important to stress that certain journalists and experts in this field have also pointed out the existence and importance of the UNICEF's Ethical Guidelines - principles of ethical reporting on children.

Laws regulating the public information on the territory of Bosnia and Herzegovina exist only in Republika Srpska, whereas in the Federation of Bosnia and Herzegovina such laws were only enacted in the region of Tuzla and Zenica-Doboj Cantons.

All the above mentioned laws, codes (by-laws), conventions and the quoted articles are listed in the Annex to this Report.

## VI RESULTS OF THE RESEARCH

As one can see from the charts below and the results gathered, the media largely violate the right to privacy of children, especially victims of sexual violence. Large number of articles, 46% (Chart 3) is published on the front pages, which clearly indicates sensationalism in reporting. Of special concern was the fact that the full name of the child was published in 41% of cases (Chart 5), in 41% of cases there is a release of the names of the parents or a relative of the child (Chart 11), in 59% of cases revealed is the name of a settlement where the child lives (Chart 8), and an image of the child is published in 28% of cases (Chart 7). On the basis of these data one can easily determine the identity of a child victim of some type of violence, especially child victims of sexual violence, which is a very traumatic experience for the child and the family, and it will be elaborated in the report below. Also, the identification is made easier by the fact that in 79% of cases reported by the internet portals the visitors of these portals have the option to comment on the articles, what increases the risk of revealing the identity of children and presenting different stories and feedback from people who know the family of the victim, or spreading of false stories.

Most journalists responded that it is necessary to protect the children's identity, that we should respect the children's right to privacy, it is forbidden to publish photos of the children, any reporting requires parental consent, and the publication has to be age-appropriate for the child.

### 6.1. Monitoring of print and online media

Monitoring of print and online media was done in the period of 11 June to 11 July 2012, but it should be noted that the electronic media were not monitored.

The number of articles published in daily papers Dnevni avaz, Glas Srpske, Nezavisne novine, Oslobodjenje and Press is shown in Chart 1:

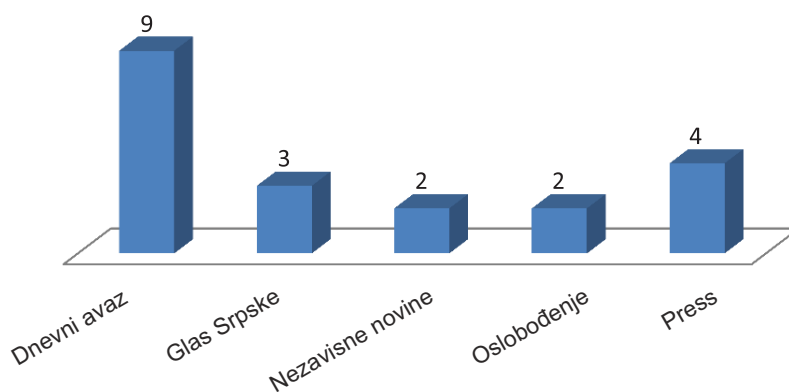


Chart 1

As can be seen from Chart 1, Dnevni Avaz published the largest number of articles about children. Although on the basis of these data it cannot be concluded whether there were any violations of the privacy of a child in specific cases, the results suggest that Dnevni Avaz, given that compared to other print media they are more intensively engaged in this issue, should pay particular attention to the manner of reporting on this category.

Number of articles published on the internet portals monitored during the period between 11 June and 11 July 2012 is shown in Chart 2:

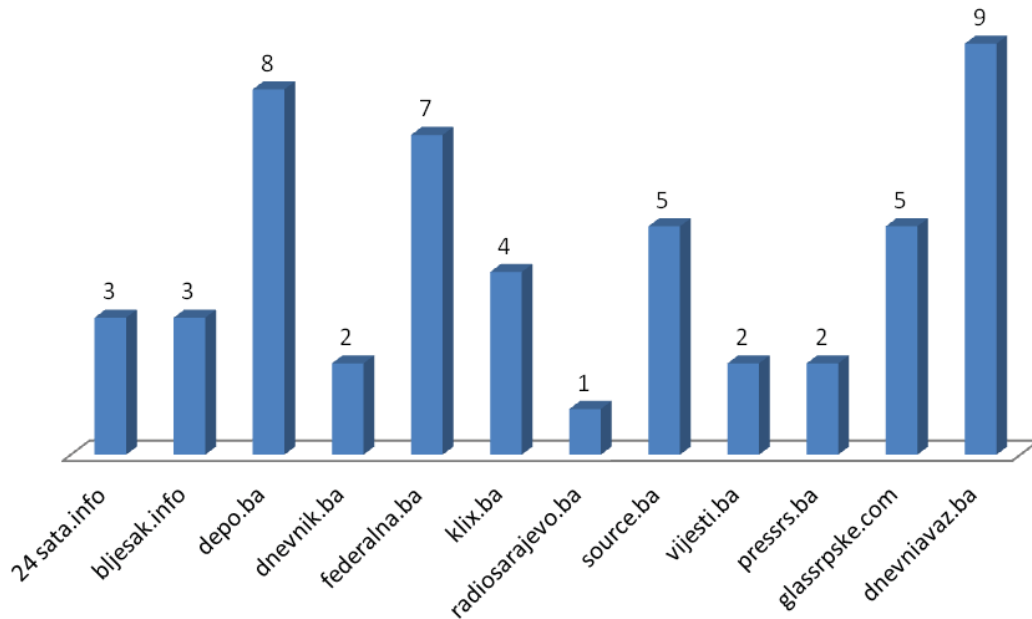


Chart 2

It is evident in the Chart 2 that the portal dneviavaz.ba publishes the most articles on children, followed by depo.ba and federalna.ba. In this case also, the results suggest that these portals, being the ones most concerned with this issue, have the obligation to report on this vulnerable category in a more sensible way.

Chart 3 shows the statistics on how many articles/titles on children ended up on the front page:

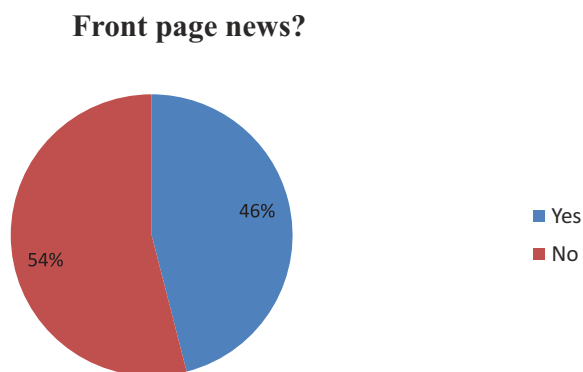


Chart 3

As shown on Chart 3, the percentage of 46% of published articles on children occupied the front pages, which may indicate a sensationalist approach to reporting of the media outlets.

Chart 4 shows whether the news occupy an entire page or more:

**News occupy an entire page or more?**

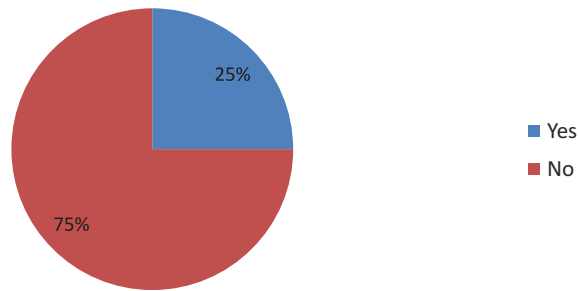


Chart 4

Chart 4 indicates that 25% of published articles on children occupy an entire page of the newspaper. These results are directly related to the results shown in Chart 3, which may lead to the conclusion that the media policy of sensationalist reporting is one of the ways to attract readers.

Regardless of the existing legal and professional solutions, the data shown in Chart 5 indicate that there are still occurrences where the media publish the full name of a child.

**Full name and surname of a child published?**

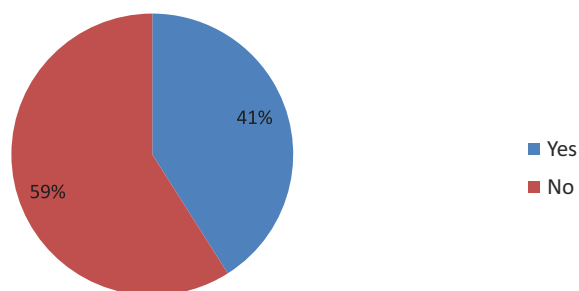


Chart 5

In Chart 5 we can see that in 41% of cases the name of a child was published, which clearly and unequivocally indicates the percentage of direct disclosures of identity, and the violations of the right to privacy. These data are particularly disturbing and special measures shall be undertaken in that sense, so that the situations of such drastic violations of the privacy rights of a child by the media can be avoided in the future.

Chart 6:

**A child's initials were published?**

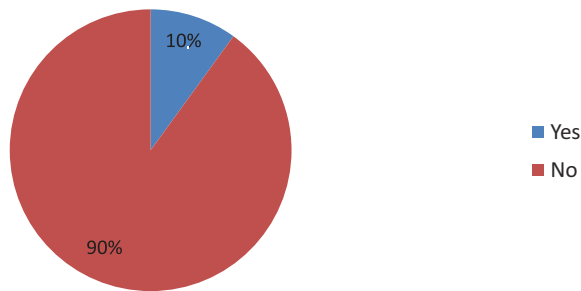


Chart 6

Chart 6 shows that only in 10% of cases the initials of a child were published, which is certainly a less direct form of violation of the right to privacy of a child than is the case shown in Chart 5, but certainly not something that would justify such actions.

Data on whether the image of a child was published are shown in Chart 7:

**A child's photograph was published?**

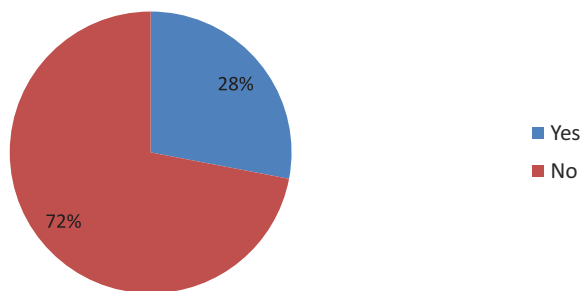


Chart 7

Chart 7 shows that photos of children were published in 28% of the cases, clearly indicating that there were direct violations of children's right to privacy, but it is also important to note that this has not happened in 72% of cases. These data are not to be ignored, because they definitely present a direct form of violation of the right to privacy.

Data on whether the name of a place where the child lives was published are shown in Chart 8:

**Name of a place where the child lives was published?**

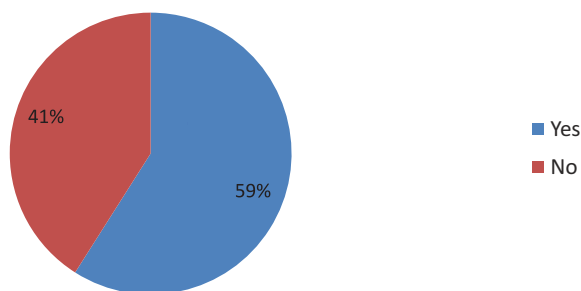


Chart 8

In 59% of cases, shown in Chart 8, given was the name of a place in which some form of violence took place, what can, along with other information provided, such as initials, posted pictures and the like, especially in smaller communities, although in an indirect way, clearly indicate the identity of the child, which again points to a violation of the right to privacy.

Data on whether the name of the school the child attends was disclosed are shown in Chart 9:

**Name of school the child attends was published?**

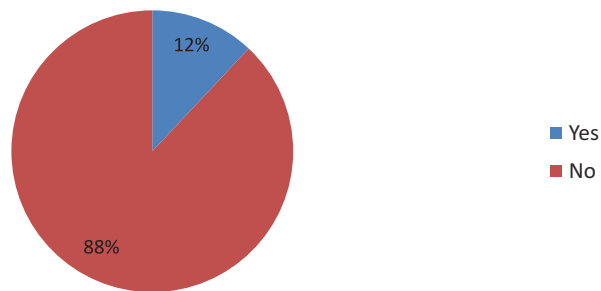


Chart 9

Chart 9 shows that in 12% of cases there was a release of information about the child's school. Although percentage is low for such cases, it is certainly worth mentioning, since it may indirectly reveal the identity of a child.

Data on whether a photograph of the house where the child lives was published are shown in Chart

**A photograph of the child's house was published?**

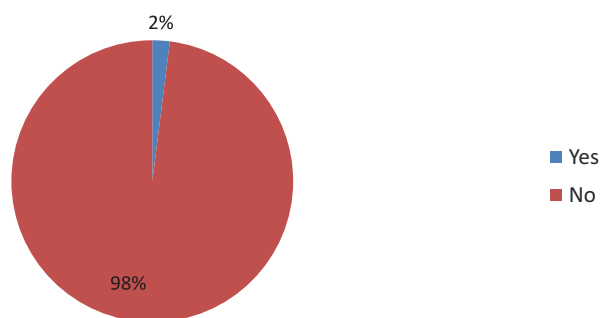


Chart 10

Results presented in Chart 10 show that in only 2% of the cases photographs of the house in which the child lives were published. It can be concluded, in conjunction with the results presented in Chart 9, that cases in which photographs of the school a child attends or the house a child lives in are rare, which is an important fact when it comes to protecting the identity of a child.



Data on whether the name and surname of parents or relatives of the child were published are shown in Chart 11:

**Name and surname of parents or relatives of the child were published?**

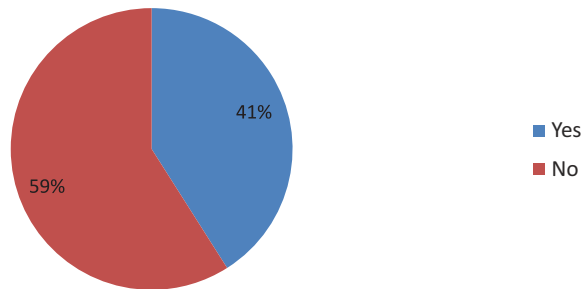


Chart 11

Data on whether the photos of the child's parents were published are shown in Chart 12:

**A child's parents' photos were published?**

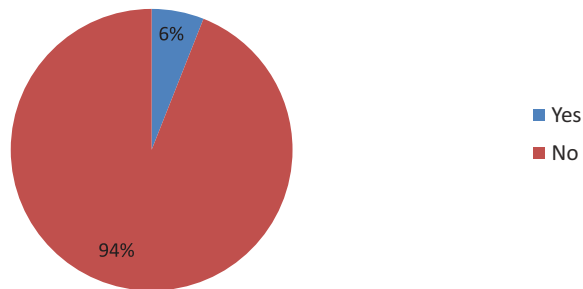


Chart 12

Data shown in Charts 11 and 12 indicate that even when journalists do not publish the name and surname of the child or a photograph of the house or a place the child lives in, or the school they attend, they still publish the names of children's parents or relatives, or their pictures. In 41% of the cases there was a disclosure of the names and surnames of the parents or relatives of a child, and in 6% of the cases published were the parents' photographs.

Data on whether the visitor of an internet portal has the option to comment on articles that report on children are shown in Chart 13:

**Is there a possibility for the visitors of a web portal to comment on articles reporting on children?**

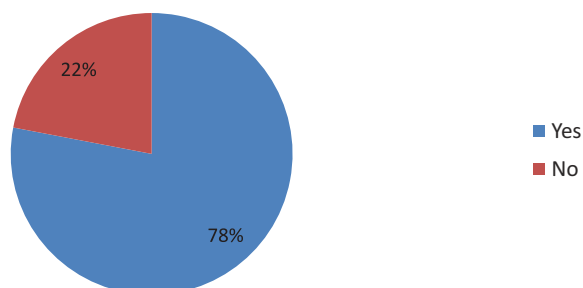


Chart 13

Chart 13 shows that in 78% of cases visitors of internet portals have the option to comment on articles reporting on children, which is particularly worrisome if one takes into account the extent to which children and young people use the Internet.

The conclusion reached after a month-long monitoring of print and online media is that 48% of cases of reporting on this vulnerable category were assessed as inappropriate and sensationalist, and that is presented in Chart 14:

**Do you find the article to be inappropriate and sensationalist?**

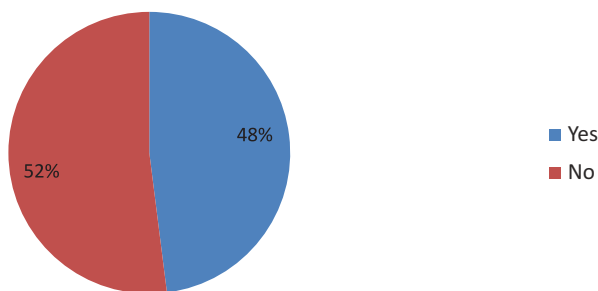


Chart 14

**6.2. Surveys of journalists**

Besides the month-long monitoring of the media, also conducted was a direct survey of the journalists employed by the above-mentioned media (print and online), as well as the journalists of the electronic media. The survey was anonymous. The staff of the Department for monitoring of children's rights interviewed over the phone the total of 70 journalists, 19 of which employed by the print media, 35 electronic and 16 online media journalists.

When asked whether they are familiar with the Press Code, 63% of the journalists responded that they are familiar, while the remaining 37% said they were somewhat familiar with it. The data are presented in Chart 1:

**Are you familiar with the Press Code?**

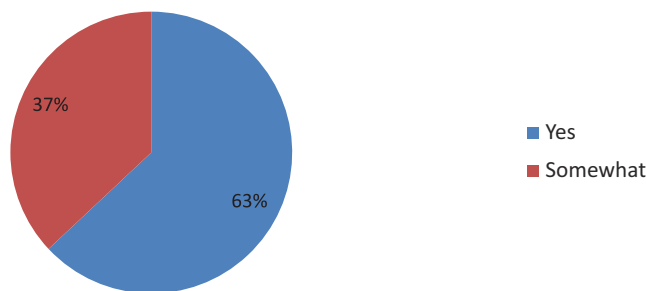


Chart 1

When asked whether they are familiar with the Articles of the UN Convention on the Rights of the Child, which defines the rights to privacy, 85% of respondents said they are familiar, while only 15% said they were not familiar with these provisions. Data are presented in Chart 2:

**Are you familiar with the Article of the UN Convention on the Rights of the Child that defines the right to privacy?**

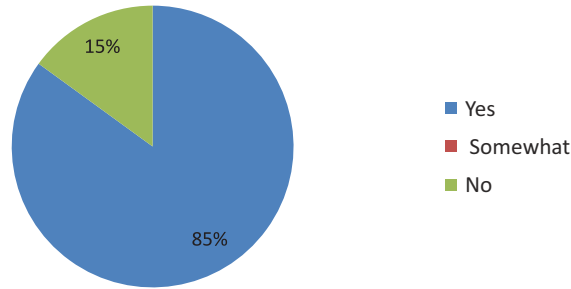


Chart 2

In the following charts one can see that more attention is being paid to children victims of sexual abuse and violence:

**Have you or your media outlet reported on cases of child victims of sexual abuse?**

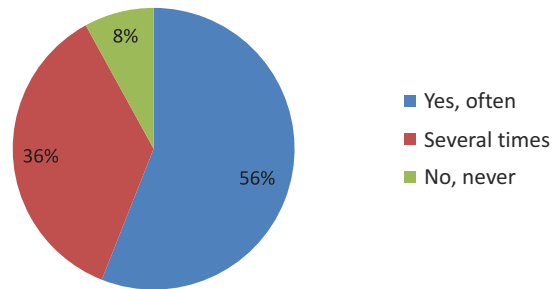


Chart 3

Chart 3 shows that the media outlets employing the interviewed journalists in most cases have reported on child victims of sexual violence (92%, where 56% reported on this subject more than once, and 36% several times), while only 8% never reported on such cases.

Data collected during this survey, clearly presented in the charts, indicate that the journalists are aware that children's rights are being violated, that such situations are very complex, stressful and traumatizing for children, but also that the journalists themselves are not sufficiently trained and familiarized with reporting methods or the rights of the children.

**Generally, do you believe that media violate the right to privacy of the child victims of sexual abuse?**

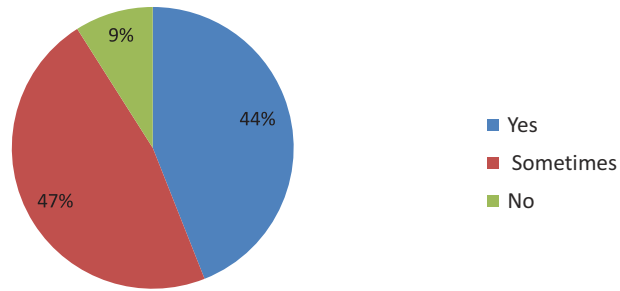


Chart 4

As visible on the Chart 4, the majority of respondents believe that the rights to privacy of child victims of sexual abuse are being violated, while only 9% think that such violations are not happening. The data could indicate that the journalists themselves are aware that inappropriate reporting may cause consequences detrimental to physical and mental development of a child.

When asked whether they were of the opinion that when reporting on child victims of sexual violence they may have disclosed some information that might reveal the identity of the child, 16% of respondents said yes, which is not an insignificant percentage. Data are presented in chart 5:

**Do you think you may have, while reporting on child victims of sexual abuse, disclosed any information that may reveal the identity of the child?**

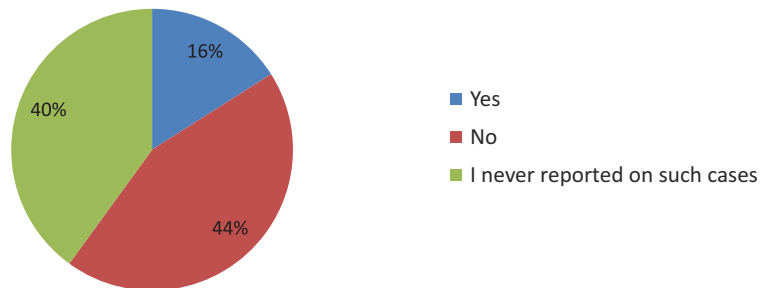


Chart 5

**Do you believe that media reports that reveal the identity of a child victim of sexual abuse may traumatize the child?**

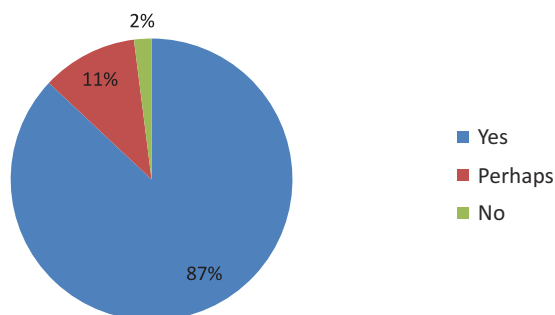


Chart 6

Chart 6 shows that almost 87% of journalists believe that inappropriate media reporting may have a traumatizing effect on a child, indicating considerable awareness of journalists on this issue and providing a good basis for planning of future activities that will help solve the problem of violations of privacy of child victims of sexual violence.

**In your opinion, are the journalists in BiH sufficiently informed about the legal regulations relating to media reporting on children?**

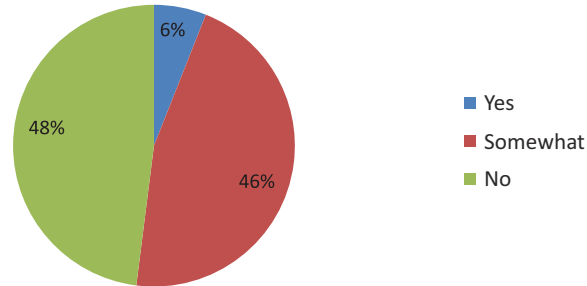


Chart 7

**Has your media outlet ever organized trainings or seminars for journalists, on topics related to media reporting on children?**

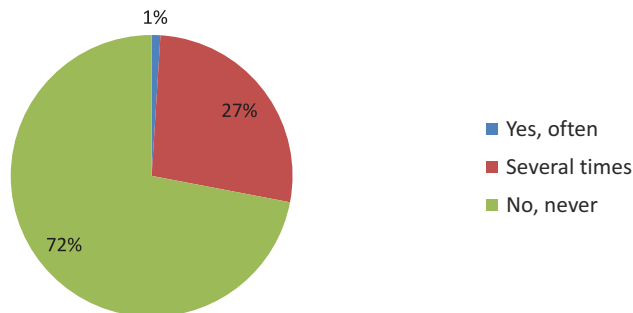


Chart 8

Based on the Charts 7 and 8, it is noticeable that journalists are not sufficiently familiar with the legislation, which they were very much aware of (73%), and that most of them (72%) had no education relating to the media coverage of children. Although they are aware of how inadequate reporting may adversely affect the mental development of the children (as shown in Chart 6), additional training is needed on these issues.

**Based on their own assessment, journalists have a right to reveal the identity of a child involved in a criminal case as a witness or a defendant?**

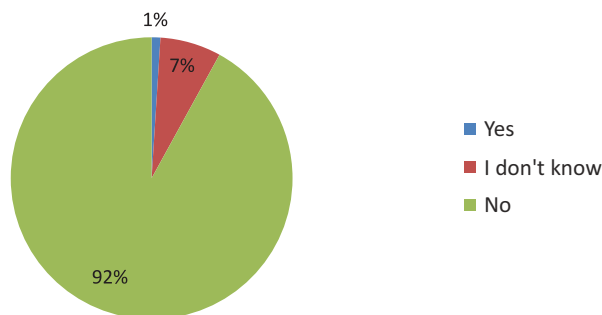


Chart 9

**According to the BiH legal system, does a child have a legal right to privacy?**

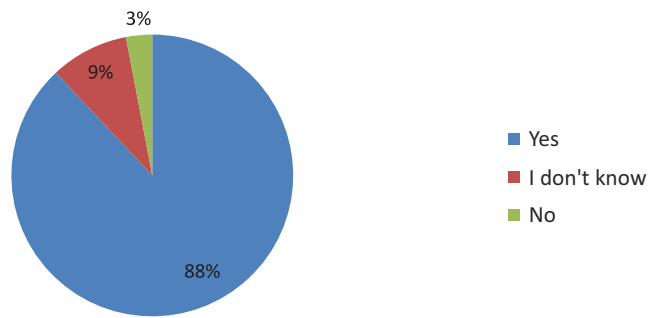


Chart 10

The results shown in Chart 10 could point to the fact that journalists, although declaratively familiar with the provisions of the Convention, do not know that one of the fundamental rights of the child is a right to privacy. The 59% of responses that the children do not have this right makes one think that it would be good to provide for compliance with the provisions of the Convention stipulating the minimum rights that the state is obliged to provide to children.

**Journalists have a right to reveal the identity of parents of a child victim of sexual abuse, since they are adults?**

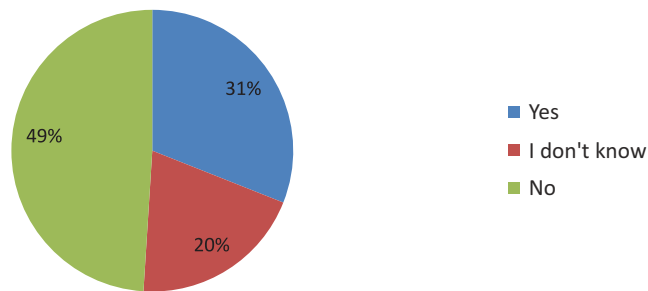


Chart 11

**Journalists are not responsible for eventual consequences that a child's appearance in the media may cause to the child and its family?**

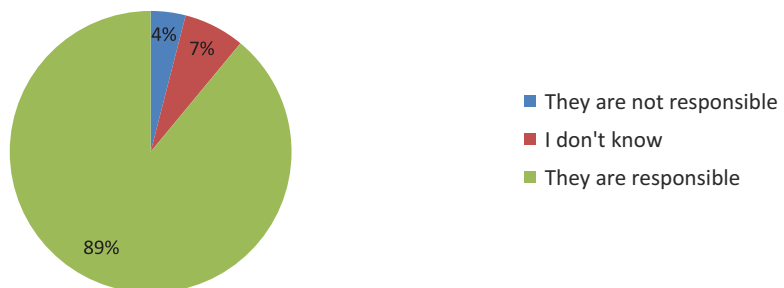


Chart 12

Chart 12 shows that journalists accept their responsibility for the consequences that a child's appearance in the media can cause to it and its family. As noted above, these results also indicate and confirm that journalists are aware of the role they play in reporting on child victims of sexual violence, but at the same time they are in need of additional education and training.

**If parents give their consent, journalists should publish the identity of a child victim of sexual abuse?**

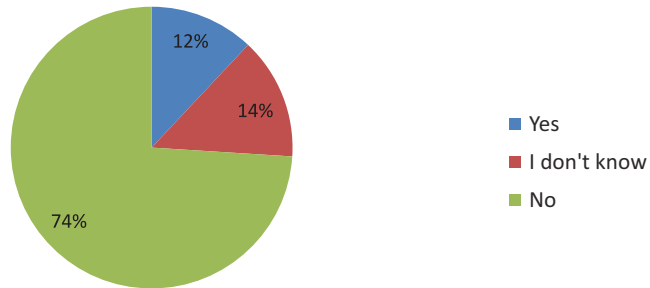


Chart 13

Journalists were also asked to state some basic guidelines they use and to which they adhere when preparing news or media reporting on children. Some of the journalists believe that they can publish children's initials, while the others feel that they should not publish such information. One of the journalists' guidelines is that children's pictures may be published, but blurred, and only a small number of journalists were not familiar with any guidelines or specific ways of reporting on children and in relation to children.

Chart 14 shows the data:

**Key provisions of the UN Convention on the rights of a Child in relation to media reporting on children**

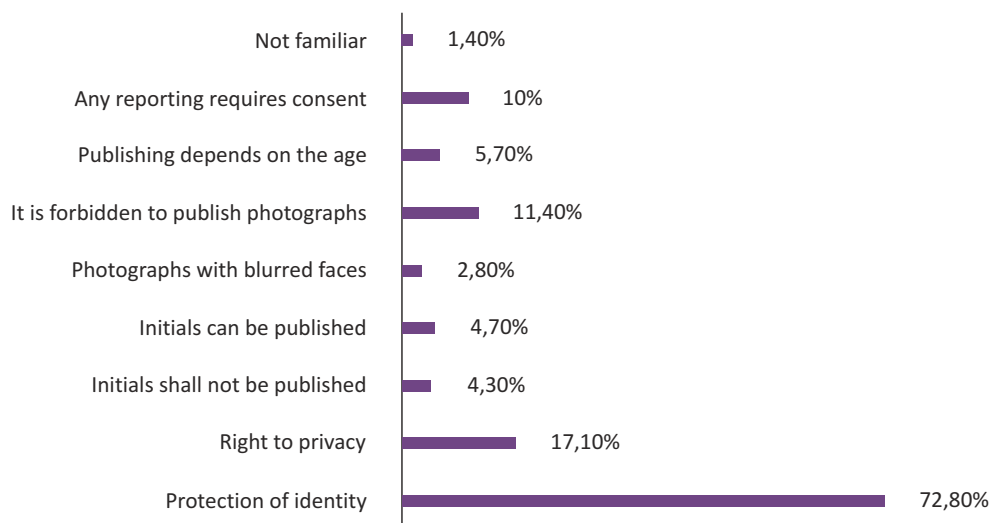


Chart 14

Journalists were asked to specifically explain what information they used when reporting on child victims of sexual violence, and data collected are shown in Chart 15.

**Which information have you disclosed while reporting on child victims of sexual violence?**

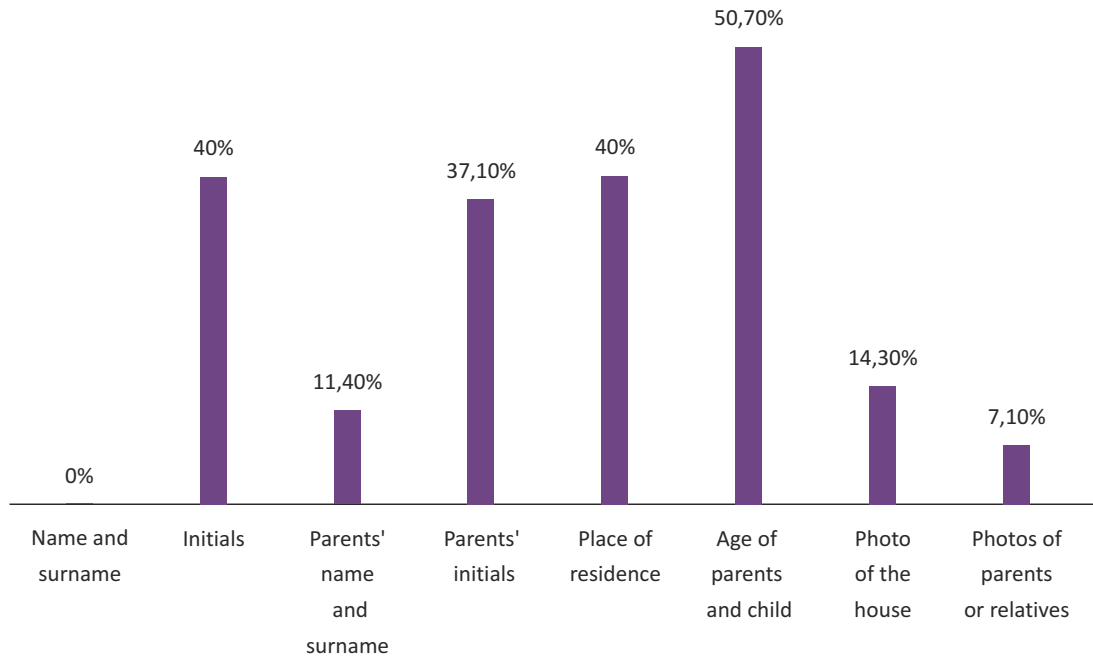


Chart 15

As seen in Chart 15, none of the journalists who have reported on cases of child victims of sexual violence disclosed the name and surname of the child. However, it is evident that 40% of them disclosed the initials and place of residence, which can often, particularly in smaller communities, indicate the child's identity. Also, the information such as the child's age and the age of the parents (55%), as well as the initials of the parents (37%), increases the chances that a child's identity may be revealed. Small number of journalists cited the name and surname of the parents (11%), an image of the house (14%), and pictures of parents and relatives, thereby violating the right to privacy of children.

On the basis of the survey, it can be concluded that most of the journalists are aware of the importance of proper reporting on child victims of sexual violence, consequences potentially caused by such inadequate reports and traumatizing experiences of children who appear in the media. However, more education in this area is necessary. Although most of the journalists interviewed said they were familiar with the UN Convention on the Rights of the Child, in their reports they cited information that violates the privacy of child victims of sexual violence, which may indicate a lack of understanding of the content of the Convention, as well as the role of specific articles in practical application of the Convention. Journalists are often pressured to report on certain cases in a sensationalist manner, because it is the sensationalism that increases the sales and attracts readers, as seen from the results of monitoring of the print and online media (front page news in 46% of cases). In addition, lack of knowledge on these issues is often a cause of inadequate reporting and consequent violations of privacy of children victims of sexual violence.



### **6.3. Activities, experiences and opinions of non-governmental organizations dealing with protection of children's rights in Bosnia and Herzegovina**

One of the goals of the overall study was to determine the extent to which non-governmental organizations, as a significant factor in protection and promotion of children's rights, are active and familiar with the situation in the area of violations of children's rights to privacy by the media. In relation to this, and in order to achieve our goal, we used the technique of focus groups and held two focus group sessions with representatives of NGOs in Banja Luka and Sarajevo.

The results of the focus group discussions indicate that the representatives of non-governmental organizations are familiar with the provisions of the Convention, including those relating to children's rights to privacy and protection from potentially harmful material and the right to information and involvement/participation in the media. Great importance is given to the media and their contribution to the promotion of children's rights, as well as their duty to disseminate information of social and cultural interest to children.

*"As we primarily work with children, we are all bound to study the Convention well and incorporate it into our work. Based on the Convention, we have developed a variety of policies that rely on the Convention, which in that sense presents a framework document for all those who work with children. As far as the rights and implementation of the law go, we all know about the rights, but we can talk for hours and days about the level of respect the others have for the rights and laws, as well as irregularities we encounter in our work..."*

*"The right to life, education, non-discrimination, the best interests of the child, the right to participate... are also important provisions which the State obliged itself to provide by ratifying the Convention, as well as to harmonize the laws, to create an environment, in sense of both financial and other conditions, for these rights to be exercised, and to report to the Committee on the situation in the country."*

*"A child has a right of access to information – of both receiving and sharing information with others."*

On the other hand, focus-group participants clearly stated that the media certainly violate children's right to privacy, and they believe such violations are result of the journalists' ignorance and lack of information on how to report in such cases. Some of the organizations have previously warned the journalists about their wrongdoings, and they believe that nothing important was solved. They find inadequate legislation to be the main reason for this. The existing mechanisms (Press Council in B-H, CRA) significantly protect the media and the journalists so that any complaint filed against them is characterized as unfounded.

*"We have mechanisms at our hands... when it comes to print media, there is the Press Code that regulates the print media, where in the best case scenario one can write a complaint, an appeal to the Press Council, which then may request a démenti from that particular media outlet, an apology, or something similar, but there is no option to, for example, fine a print media outlet, or shut it down. Self-regulation of the media is a common thing everywhere in the world, and we are not an exception. Situation is different with the electronic media, where the CRA is in charge and has the ability to punish them and to fine them, but also to revoke their license to broadcast, or their frequency..."*

*"The Press Council issued a press release regarding a well-known case, reminding once again of the Press Code which is very accurate in terms of when and how to report on children and they have*

*special guidelines for reporting on minors, where again they reminded the media of the code of ethics, the guidelines and recommendations the media are required to adhere to. That is as far as the Press Council can go, there is no other measure they can take. I have to mention that, interestingly, regarding the case mentioned, there was a large interest of NGOs and individuals who have responded to the articles in the newspapers. On one hand, that may speak of success in raising the public awareness to the extent where they now react to such cases. I thought it was interesting to hear from the Press Council that they got a large number of complaints regarding the print media writing about this famous case.”*

According to the focus-group participants, gaps in reporting definitely exist, and to realize how, where, and in what way these gaps are manifested it is enough to look at some of the titles that appear in the media, depending on the media type. The biggest problem of the media is the fact that most of them lean towards sensationalism, and that is why those problems occur. Responsibility for those gaps is more in the hands of the editor than the journalists. Electronic media journalists (TV journalists) sometimes make key mistakes while reporting on this issue, by trying not to reveal the identity of a child and then doing just that, indirectly. For an example, they will not publish the name and surname of the child, and then they will show the house where the child lives or publish the child's initials and age, the name of the town, and the like.

Some of the nongovernmental organizations have given affirmative answers to the question whether they conducted certain research or projects to point out to the representatives of the media the issue of identity protection of abused children in the media, saying that such □□ projects were implemented with the aim of raising awareness of both journalists and citizens. However, most of the projects were implemented only in certain parts of the country and without continuity, which, in the long term, did not provide satisfactory results.

Helsinki Citizens' Assembly Banja Luka issued in May 2010 a Manual for reporting on marginalized groups<sup>2</sup>. Purpose of the Manual is to familiarize the future and the now-active journalists and other interested parties with concepts of discrimination and marginalization, and provide them with guidance on professional reporting on various marginalized groups in society, to whom the journalists are often the only allies. These marginalized groups, among others, include children and young people. Term “marginalized groups” implies groups that are on the periphery of public interest, without influence and deprived of access to social, economic, political and cultural rights that are available to others.

The Manual points out numerous examples of journalistic practices in order to list some common and less common "errors" that occur in reporting on marginalized groups, additionally stigmatizing and discriminating the groups in matter. The conclusion is that, when writing such texts, a journalist has to be careful in selection of data, facts and details to be published, keep in mind the interests and protection of the victim, have empathy for the victim, protect its identity, in order not to expose it to violence or public humiliation, to know that an underage child is always treated as a victim, and to know that a victim is a victim, regardless of ethnicity or race. When writing such texts, the journalist cannot disclose the identity of the victim, especially if it is a minor (child), indirectly reveal the identity of the victim (specifying the names of relatives, place of residence, schools attended, and the like), especially if the victim is a minor (child), the ethnic or racial background of the victim, unless

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<sup>2</sup> Authors Dragana Dardic and Milkica Milojevic.

essential to the nature of the story, refer to the victim by using defamatory names, mention details that impair the reputation of the victim or may expose the victim to violence, release personal data about the victim, publish a photograph or write in a way that declares the victim guilty .

NGO representatives believe that the projects providing training for the journalists still exist and are being implemented, but do not show much practical progress. Some of the projects have been successfully initiated and then stopped, due to lack of donor funding. A major drawback of domestic journalism lies in non-specialized journalists, unprofessional attitude towards the issues, and the inability of media to train journalists for specific areas to write and report on. As a result, they believe that we have a situation in B-H there the journalists do everything and even those who have completed training generally do not report on the issues for which they are trained, etc.

*"...A joint project of Media Plan and Novi Sad School of Journalism was conducted in 2011, resulting in publication of a brochure with recommendations for better practices in the fight against sexual abuse and exploitation of children..."*

*"...within the project of the NGO network "Stronger Voice for the Children", coordinated by the "Our Children" organization, currently ongoing is preparation of a report for the optional protocols to the Convention on the Rights of the Child, specifically covering the topic of work of this focus group, where the network would be pleased to forward it to the Office of Ombudsmen once it has the consent of all of its members. The document is still in draft version and not published..."*

*"This is the third year in a row that we organize workshops with students of journalism in Banja Luka, Sarajevo, Tuzla and Mostar, on this topic, in organized groups, and what we have observed, and learned from their professors, is that an increasing number of students write in their graduate papers about marginalized groups, which is certainly a positive feedback. That is one of the side activities that we are involved in, in addition to our constant work with the media, which involves organizing breakfasts each month in Banja Luka and Sarajevo, where on one side we invite the media and on the other the representatives of various marginalized groups where they receive their, conditionally speaking, minute of time to raise the issues relevant from their perspective, and inform the journalists of the topics they would like to read about..."*

All the participants were unanimous in the view that the entire responsibility is on the media themselves, not only journalists, but, primarily, the editors. Journalists have little or no knowledge at all of the laws and regulations governing this area, primarily the Press Code and the Convention. On the other hand, there are no regulatory agencies to control all media. CRA is the only agency that is responsible for controlling the electronic media and that has the authority to sanction, but there is still the big issue of control of the online media, print media, social networks, etc. According to the participants, a big problem is the fact that, unlike the CRA, the Press Council is a non-governmental organization. Elementary ignorance of the regulations in this area can sometimes lead a journalist, even when they have the best intentions, to make □□ a terrible mistake that will not be sanctioned. The participants pointed out that it is necessary to establish the bodies and institutions, as well as standards and uniform legal regulations, in order to control all the media in B-H. They pointed out the fact that the journalists themselves often, after an error occurs in reporting, refer to the primary source of information. Specifically, if they learned about a particular phenomenon directly from the police or prosecutors, they will publish the news in the identical form, not realizing that there is any kind of liability on them. The problem is identical with the online media. When a portal publishes data on

abused children, that they are not allowed to publish, they find justification for such action in the fact that the same news were released by the other media and their web portals from which they only took the news and are thus free of responsibility. The participants believe that professional ethics is just theory and that it is necessary to raise the awareness of the journalists.

In this sense, it is necessary to prepare specific brochures that would be published and posted on the relevant web pages. In their opinion, education should be provided for all the stakeholders: police, prosecutors, social workers, schools and the teaching staff, citizens, journalists, with special emphasis on the editors of media outlets. Also, the participants state the necessity of introducing at least one topical semester at the faculties of Journalism and all the other departments whose students will in their future work with children and marginalized groups.

*"Students of journalism shall, and this is certainly the best preventative measure, have during their studies one topical semester, or have the education relevant for this topic incorporated within one or more of the subjects they study. It does not matter where or how this shall be done, but the point is that they shall in general be educated on the Rights of the Child and that this education has to be systematically incorporated into the curriculum. This does not only refer to the journalists, because all the future professionals, who will work with children, should be familiar with all of the elements of child protection."*

*"I wanted to say that, even though we are now here to discuss the topic of the media, the media are not the only ones responsible - recently, a few months ago, there was a sensitive case near Banja Luka, a case of a little girl, victim of sexual abuse, which leaked to the media. The journalist did not go to Celinac on his own or learn the little girl's name on the location, he received the information from the institutions. Only two institutions had that information, the police and the Centre for Social Work. Someone from these institutions has provided all the data to the press. There is a segment here that we have been working on – these are the general recommendations, guidelines for the media when reporting on gender-based violence, all forms of gender-based violence - and there is a part where a girl, a spokeswoman at the District Prosecutor's Office had a problem... She encounters this problem when reporters call her asking for some details, not necessarily the name, because at this point they know they will not get any names so they do not even ask for that anymore, where she does not want to give them any information, and later on the information is released anyway. The media are not omnipotent and omniscient – someone obviously feeds them the information, including the names and surnames and the rest."*

All of the mentioned organizations have expressed their readiness to provide maximum assistance to the reporters, in order to improve education in this area. They consider the Institution of Ombudsmen to be only institution that, unlike to the non-governmental sector, has sufficient capacity to work in this area and make some improvements, given the fact that it still is a state mechanism.

#### **6.4. Surveys of experts working to protect the rights of the children (psychologists and social workers)**

For the purposes of this analysis, semi-structural interviews were conducted with social workers, specifically with three (3) psychologists and one (1) social worker. It is undisputed that the experiences of these people are of great importance for this report and the recommendations of the Ombudsmen for improvements in the area of media reporting on children.

In their work, they face the problems caused by the way the media reports about children in general, including children who are victims of sexual violence, on a daily basis. They all stressed that the manner in which media report on children and in relation to children violate the children's right to privacy.

Through their reports, media reveal content on the basis of which the identity of the children is revealed, directly or indirectly. The main problem identified by the respondents is sensationalism that the media strive for. In addition, there is abuse in the sense that there are requests for certain information, and once the experts respond to those requests, the media adapt the information to fit their own needs - resulting in sensationalist headlines with incorrect data, etc. Also, one can get the impression that sometimes the media, in their desire to draw attention to an event and wishing to facilitate condemnation of the perpetrators of such acts by the public, cause more harm than good to the victim.

Consequences of erroneous media reporting, such as revealing the identity of the child and the like, are very serious. Individual differences, depending on the age of children, definitely exist and, without any doubt reflect on the future psycho-physical development of the child, manifesting itself in feelings of guilt, depression and various psychosomatic disorders, even suicide attempts. According to the experts, the effects are present in cases of both secondary and tertiary victimization. Specifically, secondary victimization of the victim occurs during the prosecution of the perpetrator, or the conduct of criminal proceedings against the offenders, while tertiary victimization occurs after completion of the whole procedure and return of the victim to its living environment.

Respondents believe that, in order to improve and facilitate the protection of children through the media, journalists need further education, implying a multisectoral cooperation to include education of both editors and journalists, but also individuals employed in institutions/organizations responsible for public relations. They believe it is evident that sometimes it happens that the so-called primary source of information, which comes directly from the very bodies and institutions, makes a mistake, and media only pass such information further, thus removing, in the opinion of the media, any kind of responsibility from themselves.

In addition to education, the recommendations for the authorities would be to introduce stricter sanctions for both the editors and the journalists, because this area is still insufficiently regulated in B-H. This lack of regulation opens up a space for certain forms of manipulation where, in cases when journalists do not get enough information they're interested in, in a way they want, they tend to cite the "unnamed sources" and construct certain events as they wish. A particular problem is posed by the online media, where there is a possibility to leave a comment below the articles published. In addition, a certain balance shall be established in the sense that journalists themselves should try to do their best to protect the identity of child victims in their reports and, at the same time, try to provoke condemnation of such acts, in order to highlight how socially dangerous are the persons committing such offenses.

Protection of children and minors should be a priority in the work of everyone, based on the principles of the best interests of the child, as defined in the UN Convention on the Rights of the Child.

As one of the respondents specifically noted, journalists should, in each specific case, contact the competent social care bodies and, if they get the information requested, publish it authentically. Respondents cited several examples from their practice, where the children felt more threatened and insecure after inappropriate media reporting than the act of violence itself. They particularly emphasize the sensitivity of children who have been victims of sexual violence/abuse, and they presented examples of the child victims' suicide attempts after the public learned of their cases.

Ombudsmen believe that improvements in the field of protection of children's right to privacy in cases of violations by the B-H media do not imply any additional state funds. Specifically, bodies and mechanisms of protection exist, as well as the satisfactory legal/normative framework, but there is a need to work on its improvement, and to secure the enforcement of legislation and conduct of the work of journalists in accordance with the rules of their profession. In addition to that, when reporting on children or issues related to children, not once shall anyone forget the consequences the reporting and media disclosure have on life and development of a child.

#### **6.5. Working/consultative meeting with the representatives of the CRA, the B-H Press Council and professors of journalism**

CRA representatives believe that the fact of the field of electronic media being regulated by the Law on Communications and the by-laws arising from this Law is a very significant fact. The legislation in matter are the two codes regulating commercial communications, as well as audio and visual services, the television being the one most watched and listened to. The mentioned codes are in full compliance with the European directive on provision of media and audio-visual services. The CRA representatives see the problem in the fact that the CRA does not have sufficient technical and human resources to carry out monitoring, meaning that the CRA has no knowledge or insight when a radio or a television station in B-H violates children's privacy, and only acts upon received complaints/reports. They are aware that the citizens are not familiar with the responsibilities and competences of the CRA, or do not even know that there is such an agency doing what the CRA does.

CRA representatives believe that there is a major problem in regulating the online media. Specifically, there is no online media registry. A website does not have to be registered in Bosnia and Herzegovina to publish or broadcast news from the territory of the country. Principally, anyone can comment on the news published online. In addition, there is a strong possibility of abuse by the hackers regarding the use of other people's IP addresses.

The Press Council believes that the online media have the obligation to work together with the police, prosecutors and the courts on discovering identities of the persons spreading hate speech in their comments.

Professors pointed out that journalism is a liberal profession in B-H, that anybody can chose it as a job, but also that there are big differences among the journalists and that there is a selection, especially among journalists in the public and private sectors. Also, it's not the same when it comes to a small media reporter in a small town in Bosnia vs. a public service reporter in Sarajevo or Banja Luka. They believe that there must be the willingness of the media themselves to do something about this issue. If a media outlet leans towards sensationalism, it will continue operating by its own rules and not respect recommendations received from the competent authorities or institutions. It is quite obvious that the private media have their target groups, based on which they create their editorial policies. Cooperation between institutions shall be strengthened.

Participants in the working meeting agreed that the media should provide constant and additional training for their employees, because they are of the opinion that some journalists make mistakes out of ignorance. For example, while protecting the identity of a child (name and surname), they disclose information that indirectly reveals that same identity. Also, some of them deal with individual cases, and not the general problems. In order to entertain the public, they point out certain plagues of society

and make mistakes in doing that, the consequences of what are very serious for the children. Stressed was a number of instances where the parents who have existential or other problems invite the media and tell their story, hoping that it will lead to criticism of relevant authorities by the spectators, and that the authorities will then find a solution for their problems, or they hope for some sort of small material benefit, which certainly is a short-term solution. In doing all that, they do not care about the rights of their children, for example whether their child will experience mockery and ridicule from their peers in school, for being poor etc.

In the opinion of the workshop participants, the state should change the status of the Press Council in B-H. The Press Council is a non-governmental organization, and it should be for all the print and online media exactly what the CRA is for the electronic media (state mechanism with the possibility of sanctioning the print and online media). Also, there is no framework law to regulate information in general in B-H. For example, Republika Srpska has adopted a Law on Public Information, and in the Federation of B-H such law exists only in Tuzla Canton and the participants were not sure whether it was adopted in Zenica-Doboj Canton. Also, some of the participants expressed the opinion that there should be a state level control authority for all the media in B-H, noting that there used to be Ombudsmen for the Media in B-H, which no longer exists.

When it comes to education of the future journalists, professors are unanimous in the view that this area is indeed covered in the sense that all faculties of journalism in B-H include in their curricula as obligatory subjects proper reporting about certain issues different conditions.

*"Students at the University of Mostar study the subject - Human Rights, where they familiarize themselves with this issue, and later on - the media and education."*

*"Pale and Banja Luka Universities have the subject - Legal Regulation of the Media, so that area is formally covered. Students get certain knowledge in this area, but the question is how much of all that will they apply in their work and adhere to it."*

*"A bigger problem is that there are no specific legal regulations to cover this area. I would like to mention the UNICEF's Guidelines for Reporting on Children."*

A representative of the Press Council in B-H noted several problems that they encounter in their daily work and activities. Specifically, the Council is funded through their projects, they have four employees and the status of an NGO. Upon receiving a complaint and establishing a violation, the media are asked to publish a démenti within the time given. According to the representative of the Council, each year the number of complaints increases, mostly relating to hate speech.

### **Ombudsmen's concerns**

Freedom of the media is a key condition for development of a democratic society that respects and protects basic human rights. According to the Shadow Report for Bosnia and Herzegovina, prepared by the Press Council in B-H<sup>3</sup>, development of the society with high democratic standards is an

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<sup>3</sup> The B-H Journalists Association and the Press Council, with support of the Civil Rights Defenders, started working on the first shadow report in 2010, based on in-depth and expert analysis and application of the proposed Indicators of the Council of Europe

obligation of all countries that are members of the Council of Europe. In order to facilitate the analysis of the freedom of media, the Parliamentary Assembly of the Council of Europe has adopted the Indicators based on which it is possible to assess media freedom in member countries<sup>4</sup>. According to the Press Council, the B-H authorities did not show any interest in the Indicators<sup>5</sup> (from the municipal to the state level), or an assessment of their application in the country, or the evaluation of the institutional readiness to protect freedom of expression and fundamental human rights of journalists and media workers. B-H media market is oversupplied and fragmented, because, according to the Shadow Report for Bosnia and Herzegovina, 9 daily newspapers are published in B-H, there are 6 active news agencies, 6 professional associations of journalists, there is a complex public service when it comes to electronic media, etc.

On the basis of the aforementioned report, the Ombudsmen express their concern about the assessment of the Press Council that the conditions for the work of journalists are very difficult and unfavorable, that their salaries are irregular and low, and their working status undefined.

One of the indicators for assessing media freedom in countries members of the Council of Europe (Resolution 1636/2008) is that the media must have editorial independence from the owners of the media, for example, through an agreement on the code of conduct with the owners of the media, for the purpose of ensuring editorial independence, and to make sure that the media owners do not interfere in the daily editorial work or are allowed to compromise the impartial journalism. The media must be protected from political interference.

There is an apparent difference of opinion and the approach of, on one side, representatives of non-governmental organizations, who participated and helped draft the Ombudsmen report/analysis, and representatives of the academic community who are directly involved in the educational process of the journalists, on the other. Specifically, representatives of the NGO sector argue that the problem is in the education system, because journalists are not sufficiently educated and sensitive in reporting on children and in relation to children. Academics believe that the problem is not in the education system, because they teach their students the rules of journalistic ethics through their lectures. According to them, the only problem in the whole story is the fact that in B-H journalism is a profession that anyone can chose to do.

Ombudsmen believe that improvements in the field of protection of children's right to privacy in cases of violations by the B-H media do not imply any additional state funds. Specifically, bodies and mechanisms of protection exist, as well as the satisfactory legal/normative framework, but there is a need to work on its improvement, and to secure the enforcement of legislation and conduct of the work of journalists in accordance with the rules of their profession. In addition to that, when reporting on children or issues related to children, not once shall anyone forget the consequences the reporting and media disclosure have on life and development of a child.

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<sup>4</sup> Upon adoption of the Indicators for assessing media freedom of the Council of Europe, European parliamentarians have adopted a special document, called Recommendation 1848, referring to Resolution 1636/2008, by which they obliged the governments of the member countries to assess the freedom of the media within their own states, on the basis of the recommended Indicators (adopted in 2008),

<sup>5</sup> Indicators for assessing media freedom in countries members of the Council of Europe



## VII RECOMMENDATIONS

### 7.1. Recommendations for the media

While analyzing the issues covered by this Report, relating to improvements in the field of protection of children's rights to privacy in cases of violations by the B-H media, certain conclusions were reached, so the Ombudsmen are, accordingly, addressing those responsible with appropriate recommendations on how to improve the situation in this area.

Ombudsmen are well aware of the fact that the media very much participate in creating a perception on certain phenomena in society. That automatically imposes on them both professional and moral obligation to carry out their reporting in a manner prescribed by both the laws and the relevant professional codes. Ombudsmen use the opportunity to once again emphasize to the journalists the necessity of avoiding sensationalism in reporting on children, particularly taking into account their vulnerability and the consequences that sensationalist reporting could cause to the overall psycho-physical development of the child.

Also, the Ombudsmen invite the media to keep constantly and additionally educating their employees in specialized areas on which they report.

**On behalf of the children, the Ombudsmen wish to point out to the media the necessity of respecting the children's rights to privacy, as well as the dignity of the child victims of any type of violence. The obligation of all of us is to protect children from potentially harmful media content and exploitation for different types of advertising, as well as to fill the media space with positive content for children and about children.**

**When reporting on children in the event of a negative image – DEAL WITH THE GENERAL ISSUE, NOT INDIVIDUAL CASES, AND ALWAYS TREAT A CHILD AS A VICTIM.**

**When reporting on sexually abused children - NEVER MENTION THE DETAILS OF THE ABUSE (be careful in the selection of data, facts and details to be published).**

**When reporting on juvenile perpetrators of criminal acts and offenses - PROTECT THE PRIVACY OF CHILDREN THROUGHOUT THE PROCEEDINGS.**

**In each specific case relating to the reporting on children, especially children who are victims of sexual abuse – DO NOT PUBLISH DEMENTIS, IN ORDER TO AVOID ADDITIONAL TRAUMATIZATION OF THE CHILD.**

## **7.2. Recommendations for the Parliamentary Assembly of Bosnia and Herzegovina and the Council of Ministers of Bosnia and Herzegovina**

Within the scope of their jurisdictions and powers, to consider examining and discussing the possibility of preparing and adopting a framework law on the media, in order to legally regulate the area of print and online media in Bosnia and Herzegovina.

Considering the necessity, to examine and discuss the possibility for the Press Council in B-H to change its status from an NGO to a state control mechanism for print and online media, such as the Communications Regulatory Agency of B-H is in the field of electronic media.

# ANNEX

## **UN Convention on the Rights of the Child<sup>6</sup>**

### **Article 13**

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others; or
  - (b) For the protection of national security or public order, or of public health or morals.

### **Article 16**

No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honor and reputation.

### **Article 17**

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of Article 29.
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (e) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of Articles 13 and 18.

### **Article 40 Paragraph 2b VII**

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and

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<sup>6</sup> Adopted at the Constituent Assembly Session, 30 March 1994

fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
    - (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
    - (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:  
...
- (VII) To have his or her privacy fully respected at all stages of the proceedings.

### **Constitution of the Federation of Bosnia and Herzegovina<sup>7</sup>**

#### **III DIVISION OF RESPONSIBILITIES BETWEEN THE FEDERATION GOVERNMENT AND THE CANTONS**

##### **Article 1**

The Federation shall have exclusive responsibility for:

- a) conduct of foreign affairs;
- b) organizing and conducting the defense of the Federation and the protection of its borders, including the established joint command of the armed forces of the Federation, supervision of military production and conclusion of military agreements;
- c) the Federation citizenship;
- d) development of economic policy, including planning and reconstruction, and the policy of land use at the Federation level;
- e) trade management, including the customs, international trade and finance, trade within the Federation, industrial property rights, standardization of products, securities, and communications;
- f) management of finance and financial institutions, including the establishment and control over the currency of the Federation, setting monetary and fiscal policies, and the establishment of the central bank;
- g) suppression of international and inter-cantonal crime, especially terrorism, unauthorized drug trafficking and organized crime as well as cooperation with Interpol;
- h) allocating electronic frequencies for radio, TV and other purposes;
- i) creating the energy policy, including inter-cantonal distribution matters, and providing and maintaining the related infrastructure;
- j) financing the activities of the Federation government and institutions established by the Federation government through taxation, borrowing or otherwise.

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<sup>7</sup> Adopted at the Constituent Assembly Session, 30 March 1994

### **Article 3**

- (1) As appropriate, the responsibilities in Article III may be exercised jointly or separately, or by the Cantons, as coordinated by the Federation Government.
- (2) Regarding these responsibilities, the Cantons and the Federation Government shall reach a permanent agreement.
- (3) In exercising these responsibilities in accordance with this Constitution and Decisions of the Parliament of the Federation, the Federation authorities shall act with respect for Cantonal jurisdictions, the diverse situations of the Cantons and the need for flexibility in implementation when enacting laws and regulations binding throughout the Federation. The Federation Government accordingly has the right to make policy and enact laws concerning each of these responsibilities.
- (4) In exercising these responsibilities in accordance with this Constitution and their respective Cantonal constitutions, the Cantons shall act with respect for inter-Cantonal committee, for coordinated approach to inter-Cantonal matters, and for consistency on matters implicating interests outside their respective borders and shall enforce, complement, and as necessary, elaborate upon decisions of the Legislature. The Cantons have the right to make policies and enact laws concerning each of these responsibilities.

### **Article 4**

The Cantons shall all have responsibility not expressly granted to the Federation Government. They shall have, in particular, the responsibility for:

- a) Establishing and controlling police forces, which shall have identical Federation uniforms, with Cantonal insignia.
- b) Making education policy, including decisions concerning the regulation and provision of education.
- c) Making and conducting cultural policy.
- d) Making housing policy, including decisions concerning the regulation and provision of housing.
- e) Making policy concerning the regulation and provision of public services.
- f) Regulating local land use, including by zoning.
- g) Regulating and promoting local business and charitable activities.
- h) Regulating and ensuring the availability of local energy production facilities.
- i) Making policy concerning radio and television facilities, including decisions concerning regulation and provision thereof.
- j) Implementing social welfare policy and providing social welfare services.
- k) Establishing and implementing Cantonal tourism policy; developing tourism resources.
- l) Financing activities of or under the aegis of the Cantonal government by taxation, borrowing, or other means.

## **Law on Communications of Bosnia and Herzegovina<sup>8</sup>**

### **Article 1**

1. This Law regulates communications in Bosnia and Herzegovina, and the establishment and work of the Communications Regulatory Agency of Bosnia and Herzegovina in accordance

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<sup>8</sup> BiH Official Gazette, No. 31/03, 75/06 and 32/10

with the Constitution of Bosnia and Herzegovina, which provides for the establishment and operation of common and international communications facilities.

2. Communications shall include telecommunications, radio, broadcasting (including cable television) and associated services and facilities.
3. This Law is without prejudice to telecommunications equipment installed and operated exclusively for the purpose of public security and defense and for the Communications Regulatory Agency. However, the frequencies used by such equipment shall be agreed with the Communications Regulatory Agency.

### **Article 3**

1. In order to carry out the constitutional provisions in respect of communications the Council of Ministers shall be responsible for policy-making, and the Agency shall be responsible for the regulation.
2. The Council of Ministers shall be responsible for:
  - a) Developing and adopting policy in line with existing legislation; and
  - b) Determining the representation of Bosnia and Herzegovina in international forums concerned with communications.
3. The Agency shall be responsible for:
  - a) Regulating broadcasting and public telecommunications networks and services, including licensing, tariffing, interconnection, and defining the basic conditions for the provision of common and international communications facilities; and
  - b) Planning, co-coordinating, allocating and assigning the use of the radio frequency spectrum,
4. The Council of Ministers and the Agency according to the respective competencies as set out in this Law shall take all reasonable measures that are aimed at achieving the following objectives:
  - a) The promotion of fair competition in order that users derive maximum benefit in terms of choice, price and quality;
  - b) That there is no distortion or restriction of competition in the communications sector according to the Council of Ministers' sector policies;
  - c) That efficient investment in infrastructure is encouraged and innovation promoted;
  - d) That copyright and other intellectual property as well as personal data and privacy is protected;
  - e) That efficient use and effective management of radio frequencies and numbering resources are ensured in accordance with the radio regulations and other recommendations of the International Telecommunication Union, and with other international agreements entered into by Bosnia and Herzegovina.

### **Article 4**

1. The regulatory principles of broadcasting shall include:
  - a) The protection of freedom of expression and diversity of opinion while respecting generally accepted standards of decency, non-discrimination, fairness, accuracy, and impartiality;
  - b) The development of professional and viable commercial and public broadcasters with the intention of striking an appropriate balance between the two;
  - c) That broadcasters shall be separate from political control and manipulation, so as to strengthen democratic principles and the foundations of a market economy;
  - d) That licenses shall be awarded on the basis of a process by which appropriate professional standards of program content, technical operation and financing are ensured;
  - e) That broadcast advertising shall be regulated so as to be consistent with best European practice.

2. The regulatory principles of telecommunications shall include:
  - a) That all users shall have access to telecommunications services on a transparent, objective and non-discriminatory basis which can be provided by a telecommunications operator for a reasonable return;
  - b) That any user of telecommunications services shall have unrestricted access by means of that service to any other such user;
  - c) That the interests of all users of telecommunications services shall be protected in respect of the availability of such services, their quality and the prices charged for them;
  - d) That the quality levels for the provision of telecommunications services and telecommunications equipment shall be compatible, as soon as possible, with standards generally adopted in the European Union;
  - e) That tariffs charged for telecommunications services shall be transparent and non-discriminatory;
  - f) That subject to meeting their obligations to provide telecommunications services, telecommunications operators shall be permitted to function along normal, commercial lines;
  - g) That open entry into the provision of telecommunications services will be encouraged according to the Council of Ministers' sector policies.

## **Functioning and Maintenance of Telecommunications Services**

### **Article 8 Paragraph 4**

4. The Agency may determine conditions, quality standards, time limits and the procedure for the provision of telecommunications services in a rule.

## **IX Communications Regulatory Agency**

### **Article 36 Paragraph 1**

The Agency is a functionally independent and a non-profit making institution with the status of a legal person under the laws of Bosnia and Herzegovina. The Agency shall carry out its duties pursuant to the objectives and regulatory principles as enumerated in Articles 3 and 4 of this Law and the Council of Ministers' sector policies. In fulfillment of its duties, the Agency shall act in accordance with the principles of objectivity, transparency and non-discrimination. Members of the Agency's bodies, its officers and staff shall act in the interests of Bosnia and Herzegovina as a whole.

## **Duties of the Agency**

### **Article 37 Paragraph 1 Item a)**

- 1) Pursuant to the provisions of this Law the duties of the Agency shall be:
  - a) To promulgate rules on broadcasting and telecommunications, and ensure adherence thereto...

### **Article 45**

Notwithstanding the jurisdiction of civil courts, users or interested parties may refer complaints, in particular complaints about the quality of service that have not been satisfactorily resolved with the telecommunications operator to the Agency. The Agency shall endeavor to resolve the complaints

within a reasonable period of time. All parties involved shall co-operate in this process and shall submit to the Agency all information and documentation required to assess the situation. The Agency may specify the types of complaints it will handle and the method used

#### **Article 46**

1. In securing compliance with Agency codes of practice and rules, the Agency shall have enforcement authority in accordance with European regulatory practices.
2. If a telecommunications or broadcasting network or service is being operated without a license, the Agency is empowered to take all necessary steps to stop the operation thereof.
3. The Agency shall have the authority to apply enforcement measures proportional to the violations in accordance with the following scale:
  - a) Oral and written warnings;
  - b) Inspection of licensed facilities;
  - c) Concrete demands for action or cessation, to be complied with within a specified time limit;
  - d) Assessment of a financial penalty not to exceed 150,000 KM in case of deliberate or negligent violation of individual provisions of the Law or of conditions specified in the license or in the codes of practice and rules of the Agency. The level of the financial imposition shall be commensurate with the gravity of the infringement and, where applicable, with the gross financial benefits derived from the infringement. In case of repeated violations, the financial imposition may not exceed 300,000 KM. The Agency shall devise a schedule of infractions and resulting penalties, which shall be adopted by the Council of Ministers;
  - e) Orders to interrupt broadcasting or the provision of telecommunications services for a period not exceeding three (3) months;
  - f) Revocation of a license.
4. Upon request of the Agency, all law enforcement agencies in Bosnia and Herzegovina shall assist it in the enforcement of its decisions.

#### **Article 47**

1. In deciding upon appeals against decisions of the Director General, the Council of the Agency shall act pursuant to the Law on Administrative Procedures of Bosnia and Herzegovina, and shall make a full review of the appealed decision
2. Appeals against the decisions of the Director General shall not suspend the effectiveness thereof.
3. Decisions of the Council of the Agency shall be final and binding in administrative procedure. Legal review of the decision can be initiated before the State Court of Bosnia and Herzegovina.

### **The RS Law on Public Information<sup>9</sup>, revised**

#### **Article 1**

Public Information is free.

All natural and legal entities have the right to engage in public information.

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<sup>9</sup> RS Official Gazette, No. 97/10



### **Article 5**

The media are not subject to censorship.

The media are obliged to accurately, objectively and timely inform the public.

### **Article 27**

A media outlet is obligated to disclose a response to published information, or any published content, if such response supplements the facts and data in terms of accuracy and completeness.

Response shall not be longer than the originally published information. It is not allowed to publish the response in the same issue of a journal, or the same radio or TV show.

### **Article 28**

A media outlet is obliged to publish a correction of a published false and offensive information, violating someone's rights, reputation and interest.

The correction must be published without amendments and on the same page, or in the same radio or TV show, in which the information defined in Paragraph 1 of this Article was released, not later than the next issue of the print media or the next show in case of a radio or television program, upon receiving the correction. It is not allowed to simultaneously publish comments on corrections of the published information.

## **VI Responsibilities in public information**

### **Article 31**

The founder is responsible for the program concept of the public media outlet and for providing the conditions that it be consistently achieved.

The editor in chief is responsible for the program orientation and editorial policies of the public media outlet, which must not be violating the constitutional order, territorial integrity and independence of the Republic, constitutional rights to freedom of a person and a citizen, or provoke and encourage national, racial and religious hatred and intolerance.

The editor in chief is responsible for any and all information published by the media outlet, unless the information is published at the request of the competent national authorities in accordance with the Article 26 of this law.

If a media outlet has more than one chief editor, they are all responsible for the segments they are in charge of.

The person providing the information or the author are responsible for authenticity of the information provided or published.

### **Article 32**

In performing their duties, journalists are obliged to respect the law and journalistic ethics (the Press Code).

The rights and obligations of journalists engaged in public information shall be regulated by the founding act and the statute of the publisher.

### **Article 34**

If the editor in chief substantially alters the meaning of the text presented for publication by a journalist it is necessary to obtain the consent of the journalist for such text to be published under his/her name.

### **Article 35 Paragraph 2**

If a media outlet publishes false information which can damage the reputation or interest of a legal or natural entity to whom the information relates, or if the information violates the honor and integrity of an individual, if it discloses or relays untrue allegations about someone's life, knowledge, abilities, or otherwise offends someone's dignity, the interested natural or legal entity is entitled to submit an appeal to a competent court, for damages against the founder, publisher, editor in chief and the author.

## **Law on Radio-Television of the Federation of Bosnia and Herzegovina<sup>10</sup>**

### **Article 38**

Programming principles

- (1) RTV FB-H's programming shall serve the public interest and shall be in accordance with professional standards and rules and regulations of the CRA. RTV FB-H shall be obliged to ensure diverse and balanced radio and television programs that meet high standards of ethics and quality, that show respect for human life, dignity and the physical integrity of persons, and that foster democratic freedoms, social justice and international understanding and peace.
- (2) RTV FB-H will prepare, produce and broadcast: news programs, educational programs, cultural programs, sports, entertainment, documentary, drama program, films, children's and other programs.
- (3) RTV FB-H's programming shall include information, culture, education, entertainment and sports.
- (4) The programs of RTV FB-H shall take into account national, regional, traditional, religious, cultural, linguistic and other specific features of the constituent peoples and all citizens of the Federation of Bosnia and Herzegovina. The programs of RTV FB-H shall also serve cultural and other needs of national minorities in the Federation of Bosnia and Herzegovina.
- (5) RTV FB-H program will respect the constitutional rights of the citizens, constituent peoples and others, and will be prepared equally using all three official languages □ □ and both alphabets.
- (6) In production of its own program and co-production, RTV FB-H will ensure equal representation of content to feature the tradition and heritage of all three nationalities and adequate representation of the others.
- (7) RTV FB-H shall produce and edit programs in accordance with the highest professional criteria and with respect for artistic and creative freedoms, independent of the opinions of governmental bodies, political parties and/or other interested groups.
- (8) RTV FB-H shall have the right to broadcast sessions or parts of sessions of the Federation Parliament, in particular those marked as important by either of the houses of the Federation Parliament. RTV FB-H has the obligation to inform the public on parliamentary activities, through parliament chronicles, not later than three to five days after the sessions of the Federation Parliament, fitting the program scheme of the RTV FB-H. For that purpose, RTV FB-H shall have free access to the sessions of the Federation Parliament.

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<sup>10</sup> FB-H Official Gazette, No. 48/08

- (9) RTV FB-H shall be obliged to publicly present and submit to the Federation Parliament its annual program plans as well as reports on implementation of the previous program plans. Everyone has the right to submit to RTV FB-H objections and suggestions related thereto.
- (10) Once a year RTV FB-H will submit to the Federation Parliament a report on its activities, including financial statements, and the report on the audit of financial operations.

### **Article 39**

#### Realization of programming principles

- (1) In realization of the fundamental programming principles, RTV FB-H shall in particular do as follows:
  - a) Inform the public in a truthful, complete, impartial and timely manner of political, economic, educational, scientific, religious, cultural, sport and other events;
  - b) Ensure an open and free discussion on issues of public interest, taking into account inclusion of different interests and tastes;
  - b) Respect and promote pluralism of political, religious and other ideas;
  - d) Treat impartially all political, economic, educational, scientific, religious, cultural and other issues in order to enable equal presentation of different viewpoints with a view to fostering democratic spirit, mutual understanding and tolerance;
  - e) Foster and develop all forms of creative capacities that contribute to the development of culture, art and entertainment;
  - f) Contribute to the respect and promotion of basic human rights and fundamental freedoms, democratic values and institutions, and the culture of public dialogue;
  - g) Respect the privacy, dignity, reputation and honor of a man and the fundamental rights of others, especially children and youth.
- (2) RTV FB-H is obliged to adjust the news, cultural, educational and entertainment programs to the needs of people with impaired hearing and other people with special needs.
- (3) RTV FB-H shall observe the Programming Code of the Public Broadcasting System in Bosnia and Herzegovina, which regulates basic principles of editorial policy in accordance with the highest professional criteria.
- (4) News shall be unbiased, independent and correct. Before dissemination, news material must be examined, with reasonable care, according to circumstances, as to its content, origin and truth. Commentary shall be clearly distinguished from news.

#### **The Press and Online Media Code of B-H<sup>11</sup>**

**Purpose:** to establish the foundation of a system of self-regulation in the print media, which shall be considered **morally binding** for reporters, editors, owners and publishers.

#### **General provisions:**

1. Print media shall abide by standards of human rights defined by international and B-H acts on human rights.

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<sup>11</sup> Adopted by the B-H Association of Journalists at sessions held on 29 April 1999, February 2005, August 2006, December 2006 and June 2011.

2. Print media shall develop the awareness of gender equality and the respect of individuality as the integral part of human rights.

**Gender Equality and Respect of Individuality:** To avoid direct or indirect comments which might place individuals in an unequal position or discriminate them based on sex, gender, sexual identity, gender identity, gender expression and/or sexual orientation.

#### **Protection of Children and Minors**

1. Journalists **have the obligation to be extremely careful**, respecting **ethical norms and the UN Convention on the Rights of the Child** (starting with the child's best interest)
2. Journalists are **obligated to protect the child's identity** in procedures not involving the public
3. Journalists **shall not interview or photograph children under the age of 15**, regarding matters involving the child's family, in the absence of or without the consent of a parent or guardian.
4. Journalists **may** carefully and responsibly identify children under the age of 15 when they are victims of crimes.
5. Journalists **must not**, under any circumstances, identify children under the age of 15 who are involved in criminal cases as witnesses or defendants.

#### **Code on Audiovisual and Radio Media Services<sup>12</sup>**

##### **Article 18**

##### **(Audiovisual and Radio Media Content Aimed at Minors)**

- (1) The use of tobacco and tobacco products, alcohol and drugs shall not be featured in content aimed primarily at minors, unless the aim of such content is to raise awareness about harmful consequences of such behavior.
- (2) All forms of violence or dangerous behavior that is easily imitable by children or minors shall not be featured in content aimed primarily at minors, unless the aim of such content is to raise awareness about harmful consequences of such behavior.

##### **Article 19**

##### **(The Involvement of Minors in Audiovisual and Radio Media Content)**

- (1) Any misuse of minors in audiovisual and radio media content shall not be allowed.
- (2) For minors who directly participate in audiovisual and radio media content, prior consent of parents, guardians or other legally responsible persons must be obtained.
- (3) Prizes given out to minors must be appropriate to their age.
- (4) Minors must not be caused any unnecessary distress or anxiety by taking a direct part in audiovisual and radio media content. Due care must be taken over their physical and emotional welfare and dignity, irrespective of any consent given by the minor or by their parent or guardian.
- (5) Minors shall not be questioned about private family matters or matters which could be beyond their judgment ability.
- (6) Using minors for political purposes shall not be allowed.

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<sup>12</sup> B-H Official Gazette No. 98/11

## **Article 20**

### **(The Coverage of Criminal Deeds/Proceedings Involving Minors)**

- (1) Name and other information that may disclose the identity of a minor involved in the criminal proceedings shall not be revealed at any stage of the proceedings.
- (2) Information on the course of the criminal proceedings against a minor, or a verdict made in these proceedings shall not be revealed, nor shall it be allowed to make audio or video recordings of these proceedings
- (3) A legally binding judgment in a proceeding against a minor or a young adult may be published, however without giving out any personal or other information upon which their identity could be disclosed. The above shall also apply in case of criminal deeds against a minor, as well as in cases where minors act in the capacity of witnesses.
- (4) In cases where legal restrictions or restrictions in disclosing a minor's identity are applicable, media service providers shall pay particular regard not to publish content that could disclose the identity or indicate a direction leading to the identification of a minor involved as a victim, witness, the indicted or in any other way involved into investigation or court proceedings related to the criminal offence. Moreover, due care must be taken when revealing information that, if combined with information published elsewhere, could disclose a minor's identity.
- (5) When reporting on any information in relation to a criminal deed or proceedings, media service providers shall pay particular regard to the vulnerable position of the minor involved in the case either as a victim or a witness. This particularly refers to the revealing of their names, addresses, photographs or video recordings, their school or workplace.
- (6) Due attention shall be paid to the protection of identity of minors in any way involved in sex crimes. In all such cases, information on identity may be published only upon the previously obtained approval by relevant authorities.
- (7) The identity of a minor convicted of a criminal offence can be revealed only if it is essential to the public interest.

## **Article 21**

### **(Scheduling and Labeling for the Purpose of Protecting the Minors)**

- (1) Media service providers shall ensure that minors are protected from potentially inappropriate and harmful content.
- (2) Content which might seriously impair the physical, mental or moral development of minors shall not be shown. This obligation does not apply to on-demand audiovisual media services if there are technical protection measures in place.
- (3) Content which is likely to impair the physical, mental or moral development of minors that is shown without the technical protection and that includes the portrayal of strong violence, sex, coarse language and scenes depicting the abuse of alcohol and drugs, shall be identified by means of a visual symbol throughout its duration. This obligation does not apply to news and current affairs programs which are covered by Article 10 of this Code.
- (4) Media service providers shall be responsible for the classification of content.
- (5) When classifying certain content, media service providers shall pay due attention to its possible ethical and other social consequences, taking into account the following:
  - a) whether featured violence and its after-effects or behavior that is easily imitable or could be harmful to human health or security are positively valued, i.e. shown as socially acceptable and suggested as a means of resolving conflicts/problems;
  - b) whether they depict minors as object/victims of violence;

- c) the level of realism in portrayals of violence and its after-effects or behavior that is easily imitable or could be harmful to human health or security;
  - d) frequency, intensity and explicitness of scenes of violence, sexual activity, inappropriate language, suggestive behavior that is easily imitable or could be harmful to human health or security, and behavior that is offensive to human dignity;
  - e) frequency and duration of close-ups and/or detailed verbal, visual and/or textual descriptions of brutality and obscenity;
  - f) accompanying aesthetic effects (music, masks, makeup etc.) that may cause distress or anxiety to the audience.
- (6) The visual symbol from paragraph (3) means a graphic symbol that shall clearly be indicated on the screen.
- (7) Visual symbols shall be used to identify following content categories:
- a) Category 12+: content that is not suitable for minors under 12 and that may be shown from 20:00 and 06:00 hours, including:
    - content which occasionally portrays violence and its after-effects, without showing any detailed scenes, and which has a strong editorial/artistic justification;
    - content which portrays natural nudity outside of a sexual context and scenes of sexual activity that are only briefly and discreetly indicated;
    - occasional use of moderate language that is justified by the context.
  - b) Category 16+: content that is not suitable for minors under 16 and that may be shown from 22:00 and 06:00 hours, including:
    - content which occasionally portrays moderate violence and its after-effects, including detailed portrayal of injuries, serious wounds and blood, especially if such violence is presented as acceptable and can be easily imitated;
    - content displaying nudity and sexuality without explicit portrayal of sexual organs and sexual activity that is justified by the context and whose primary purpose is not sexual arousal or stimulation;
    - moderate use of strong language including jokes and expressions intended to provoke and cause disturbance, and moderate use of coarse language and swearing.
  - c) Category 18+: content not suitable for minors under 18 and that may be shown from 24:00 and 06:00 hours, including:
    - portrayals of strong violence and severe and terrifying after-effects of violence and explicit portrayal of sexual violence;
    - detailed portrayal of sexual activities in programs whose primary purpose is not sexual arousal or stimulation;
    - content whose primary purpose is sexual arousal or stimulation and that portrays nudity in seductive and provoking sexual positions without explicitly showing sexual organs during the intercourse;
    - frequent use of the strongest swear words and obscene expressions.
- (8) Content that does not fall into any of the categories given in paragraph (7) may be shown without scheduling restrictions and visual symbols.

- (9) Content referred to in paragraph (7) may be shown in audiovisual and radio programs without scheduling restrictions provided that the technical protection measures are in place.
- (10) On-demand audiovisual media service providers may show content referred to in paragraph (7) without scheduling restrictions but have the obligation to indicate the appropriate visual symbol in their catalogue of services. The exception is content belonging to category 18+ which may be shown without scheduling restrictions only if there are technical protection measures in place. If this is not the case, such content may be made available only between 24:00 and 06:00 hours.
- (11) Announcements of content referred to in paragraph (7) shall not include descriptions and scenes which are likely to impair the physical, mental or moral development of minors. Announcements of such content must be identified by the presence of a visual symbol indicating the appropriate category.
- (12) This Article refers to content provided by radio media service providers as well, who have the obligation to apply the above categorization by means of an appropriate acoustic warning at the start of the program as well as after any break.

## **Code on Commercial Communications**<sup>13</sup>

### **Article 6**

#### **(Commercial Communications and Minors)**

- (1) Commercial communications shall not encourage behavior that might impair health, mental and/or moral development of minors.
- (2) Commercial communications aimed at or featuring minors shall avoid anything likely to harm their interests and shall have regard to their special susceptibilities.
- (3) Commercial communications aimed at minors shall not:
  - a) contain false information about the product or service, particularly in relation to its actual size, value, nature, durability, speed, color and other qualities;
  - b) in addition to information on the price, contain value judgments such as "only", "for a mere", "trifle", "bargain" etc.;
  - c) recommend products or services that are not suitable for them;
  - d) recommend medicines, medical treatments, aids and devices, including medical institutions, weight loss treatments, sources of ignition, flammable substances and other dangerous devices, convey religious messages, or include erotic content;
  - e) show a minor in a dangerous situation such as: climbing onto unsecured objects, entering unfamiliar spaces, having conversation with unknown people, using matches, lighters, petrol, medicines, electrical household appliances etc., unless such an audiovisual commercial communication indicates a hazard to a minor's health and security;
  - f) contain scenes of violence, including violence between cartoon characters, puppets etc.;
  - g) suggest that certain products or services will bring them enhanced physical, intellectual or other social skills;
  - h) directly exhort minors to buy or hire a product or service by exploiting their inexperience or credulity;
  - i) directly encourage minors to persuade their parents or others to purchase the goods or services being advertised
  - j) exploit the special trust minors place in parents, teachers or other persons;

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<sup>13</sup> B-H Official Gazette, No. 98/11

- k) uphold social discrimination based on physical appearance or other aesthetic categories, or imply success based on weight loss.
- (4) When a commercial communication makes reference to the outcome of drawing, constructing, assembling and modeling, the ability to achieve such an outcome shall match the average ability of the target minors. Such commercial communication shall indicate the age of a minor it targets.

#### **The Law on Protection and Treatment of Children and Juveniles in Criminal Procedure<sup>14</sup>**

##### **Protection of privacy**

###### **Article 7**

The right to privacy of a juvenile offender is respected at all stages of the proceedings, so that the media will not publish the name and other information that reveals the identity of the minor.

#### **The Law on Protection and Treatment of Children and Juveniles in Criminal Procedure of Brcko District<sup>15</sup>**

##### **Protection of privacy**

###### **Article 7**

The right to privacy of a juvenile offender is respected at all stages of the proceedings, so that the media will not publish the name and other information that reveals the identity of the minor...

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<sup>14</sup> RS Official Gazette, No. 13/10

<sup>15</sup> BDB-H Official Gazette, No. 44/11





