

## The Right of Reply and Correction: The Slovenian Experience



*Marko Milosavljevic, at the Journalism Department at the University of Ljubljana, Slovenia, warns of the possible consequences of a statutory right of reply.*

Since the Leveson Inquiry into press ethics began, three separate groups, the **Press Complaints Commission**, the 'Roundtable' group, and the **Coordinating Committee for Media Reform** (CCRM), have each put forward proposals for press reforms. The reforms proposed by the CCRM include the notion of a statutory right to reply, which would reserve prominent space for the subject of a story to respond. But how would this actually work in practice?

There's a thin line between the right of reply or correction and the right to exert undue pressure on the media. Slovenia can offer a number of such cases, including examples how media should not be regulated.

No matter how much someone believes that the media are out of control and should be more responsible, you know that something went wrong when you see text by a politician where an editorial should be, and when you see a news show where for the first couple of minutes a news reader is reading a correction by the government ministry.

It all started with the best intentions. At least officially. The Ministry of Culture of Slovenia prepared amendments to the Mass Media Act that regulates mass media in Slovenia in 2006. Among other things they also changed the regulation of the right of reply and the right of correction. Both of these rights are written also in the **Slovenian Constitution** from 1991 (Article 40). However they are defined quite widely: although both rights are included in the chapter on human rights, they include not just individuals but also institutions, including different branches of power.

These wide definitions were then extended with amendments to the **Mass Media Act**. The right of correction was not defined only as a correction of factual mistakes but also as a right to "present other or opposite facts and circumstances" (Article 26). The law then demands that the correction (or reply) needs to be published "in the position of the same value", "on the same page within the same section and in the same type of letters or in the letters that are the same size" (Article 27).

It also demands that the editor-in-chief must respond to the demand for the correction within 24 hours after receiving the demand. If the editor refuses to publish the correction, he must define the reasons for this refusal and send this explanation in a response using trackable, insured service (not e-mail).

The Ministry of Culture and the minister claimed that the changes were meant to protect ordinary people, whose personal rights are infringed by an increasingly aggressive media.

Although there were many warnings that this extended right of reply and correction is very controversial and may lead to absurd situations in the media, with infringement of editorial policy and decisions, the amendments to the law were passed by the national parliament. Slovenian journalists and editors have thus for the last six years dealt with many strange (to put it mildly) situations.

As the law offers a very wide definition of possible reasons for the corrections, not just factual, this has led to situations where politicians or companies demanded corrections of editorials and

comments, not because of any factual mistake but purely because they claimed they want to present “different or opposite facts or circumstances”. Editorials had to be cancelled and instead letters from the politicians had to be published – in the same space, with the same letters etc. (MP Tone Rop in the magazine Mag).

There were also demands to publish a “correction” of statements from other people’s press conferences or even from the parliament. Namely when the media published a report in which a statement or opinion was correctly presented, anyone who considered their rights infringed by that opinion could demand the right to correct these statements.

For example, if Slavoj Žižek, a colleague from my university, gave an interview and within that interview said that he believes that the ruling coalition is incompetent or has not been successful, the newspaper that published that interview could face not just one but a number of demands for a correction. Anybody who believes that his rights were infringed – that would include all the parties in the coalition – could demand the right of correction: in the same section and in the same size. So if the original interview would be published in a supplement across two pages, all “involved” parties could demand that their “correction” of Žižek’s opinion be published across two pages.

It seems absurd and it is absurd. And these sorts of situations are unfortunately not just hypothetical. When magazine 7D published an article about gambling and its possible (negative) consequences, one of the largest casinos in Slovenia demanded the right of correction. With the help of their lawyers they managed to achieve this and got their “correction” published in the same section of the magazine and in the same size: over three whole pages.

Over time, editors and their lawyers have found a number of ways to refuse demands for corrections or to make them smaller. However the law is still there and the editors still, regularly, receive demands for corrections. So although a journalist did nothing wrong, correctly reported from a certain event, got his quotes right, anybody involved in the story can demand a correction. Even worse, the correction can be demanded for editorials or art reviews as well, if the author expresses an opinion that is different than the opinion of someone mentioned in the article.

And of course there is also a question of who is actually demanding these rights of correction. Is it really the “ordinary”, “small” person, as the (right-wing) politicians from the government claimed? Data from one newspaper shows that from January 2007 until September 2008 the paper received 117 demands. Out of those demands for corrections or reply, 94 per cent came from different state ministries, local authorities, corporations and other institutions. Only 6 per cent actually came from individuals or small companies.

As with many other measures that are adopted with all the best intentions, this is also one that has gone wrong in the case of Slovenia. In this case, the warnings were clear from the beginning, only the politicians didn’t want to hear them, as they were so altruistically worried – as they often are – about the “small” person. The result is a situation where an editor wonders where the next demand for correction will come from and hopes that Slavoj Žižek will not say anything that someone else doesn’t agree with or has a different opinion. If that is possible of course.

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