

## **Abstract: Legal aspects of media activities**

The following work focuses on providing an overview of the overlapping areas between the penal code and media activity. A preliminary analysis of judicature and doctrine is sufficient to demonstrate that the matter is much more underrepresented in legal discussion than civil or administrative aspects of the activities of the media, although penal code plays an essential role in delimiting the boundaries for the unimpeded functioning of free press and is of vital importance in defining the concepts of freedom of speech, expression and press. The relevance of the norms of penal code for the assessment of all forms of press, or (more widely speaking) all media activity is further underlined by the realization that the functioning of free media is a foundation of the legal order accepted by all democratic states based on social justice and the rule of law. Consequently, it is vital that the interference of penal code with the freedom of the media must be well-balanced and appropriate to the aims it is designed to achieve.

An analysis of the functioning of penal code regulations in media activity indicates that they fulfill a reciprocal role; on the one hand, delineating the boundaries of the freedom of speech and charging journalists with legal responsibility, while simultaneously, on the other hand, providing media workers with grounds for unimpeded fulfillment of their social mission. The following discussion attempts to establish the degree of interference on the part of penal code regulations in the constitutional freedom of expression and assess whether it fulfills its *ultima ratio* operative function, which would allow for an evaluation of the degree of penalization of press code under Polish legislature.

The article is also an attempt to illustrate the problem of media crimes, which form the essential and fullest expression of the penal code in the functioning of the media, by constructing a working definition of press crimes and their varieties. In contrast to a majority of doctrinal opinions, it distinguishes among three categories of press crimes: actual press crimes (concerned with the operations of the media), non-actual press crimes (concerned with the subject matter of press material) and, finally, crimes against freedom of press, which form a definitely distinct variety, not included by the former categories.

The discussion is also concerned with the dynamic development of investigative journalism, tracing its origins back to the phenomenon of the *paparazzi* and the forerunners of

this type of journalism in Poland up to the more recent and famous cases of this type of media operations. It also defines and analyses the so-called 'aggressive' methods of information gathering, devoting particular attention to the fashionable concept of journalistic provocation, which it has to be stressed remains illegal in the light of Polish regulations. The work is further dedicated to a review of investigative journalism with respect to the ethical code of journalism, as well as its impact on some of the major tenets of penal proceedings.

It also discusses the circumstances which allow for a suspension of legal responsibility in the case of journalists attacking law-protected values, paying particular attention to a reconstruction of the operative countertype of such press activities functioning within the bounds of social interest, basing on the existing press law regulations. Further, it presents the legally vital institution of press secret, discussing its particular functions and their impact on the functioning of press informants, journalists and justice.

The article is concluded with an observation that throughout the last three decades Polish press law regulations have been steadily evolving towards a limitation of their restrictive function, which can only be perceived as a development in the right direction, as an excessive penalization of press and publishing is unacceptable in a democratic state of law. The abolition of definition of certain types of press activity as crime by legislature (e.g. the failure to publish or an incorrect publication of rectification: art. 46), or the functional shift of certain activities from the range of crimes to offences (art. 45) is evidently an expression of an increasingly deeper understanding of the essential values standing behind free media and the freedom of speech.

A handwritten signature in blue ink, consisting of stylized, cursive letters that are difficult to decipher but appear to be a personal name or initials.