[BA] RAK and Hate Speech via the Internet

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The difficult political, administrative and ethnic situation in BiH has its resonance in the country´s media too, including communication in cyberspace. BiH is experiencing an expanding role of the Internet with a flood of private websites, forums and the like in which hate speech is also mushrooming.

The Communications Regulatory Agency (RAK) has expanded its mandate on SMS broadcast via TV stations (see IRIS 2009-1: 1), but has not yet adopted further regulation regarding Internet content. A key problem is the global medium and local law dichotomy. But hateful messages posted (e.g.: “Bosniaks are ready for another war!“) sound alarming and frightening. The International Covenant on Civil and Political Rights and Optional Protocols forbid propagating war. Furthermore, the Constitution of BiH Annex I includes 15 international documents dealing with human rights, which have priority over domestic laws.

The RAK's role was formalised in legal terms after the Law on Communications entered into force in 2002. This law defines broadcasting and broadcaster as „any point-to-multipoint emission of signs, signals, text, images, sounds or data by wire, optical fibre, radio or any other electromagnetic means intended for general reception by the public by means of receivers adapted for this purpose“, and „any legal or natural person providing broadcasting“ (Article 2 Point 2 Letters c and d). It is questionable whether Internet should be exempt from the RAK regulation.

Recently, responding to a press article which dealt with controversies over RAK's mandate, the RAK's representative said that RAK does not regulate Internet content, but only issues licenses to the Internet Service Providers (ISPs). There is one exception to this rule as domestic ISPs are responsible for content relating to child pornography. Only a court can order an ISP to remove certain materials. In case of disobedience of a court ruling RAK can intervene, be it by canceling the license temporarily or even permanently. It was also said that none of the regulators in Europe was mandated to regulate Internet content. In that context the Audiovisual Media Services Directive (AVMSD) was mentioned, which will cover Internet TV and on-demand services. The AVMSD rules do not apply to private websites. They cover audiovisual media services, emphasizing the editorial responsibility of media service providers. Although BiH is not yet even a candidate country to the EU, it is trying to harmonise its media regulation and legislation with EU standards.

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