

# Online Media Ethics and the Privacy of Politicians in Kosovo

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**Summary.** The pluralism of online media outlets, as well as the objective of these outlets to be the first to inform on events, may possibly lead these outlets to disrespect professional ethics. This paper will discuss the theoretical and ethical aspects of online media, its regulatory framework and particular cases when the respect of ethical standards when reporting on issues of privacy was potentially violated. This paper uses the purposive sampling method and comparative methods. The paper will examine a case study (where the intimate images of a politician were published), and whether ethical standards were respected in that particular case.

**Keywords:** ethics, journalism, media online, privacy, reporting.

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## Introduction

In the era of digitization, online media have gained significant importance in democratic societies – the Kosovar society as well – and today wield massive influence owing to the widespread distribution of these outlets. Therefore, it is essential that these communication channels adhere to ethical values, so that, besides legal obligations, they respect the moral principles and ethical standards of journalism. Online media in Kosovo have often lacked professionalism. This is most noticeable with sensational news, the primary goal of which is not to inform the citizens but get as acquire as many views as possible. If, once, the most significant struggle in journalism was to sell and increase the circulation of newspapers, this has now moved on to the internet, where online media are competing to get the most clicks.

However, this does not excuse the online media outlets, which attempt to gather clicks through sensational reporting while sacrificing the coverage of events that could benefit

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public interest and, at the same time, ignore the rights of privacy, which is an issue that most often creates ethical dilemmas for journalists. The privacy of a person with public responsibilities, especially its boundaries, are a matter of constant debate. In the traditional media, facts are verified and confirmed through various filters, such as the editor or the managing editor employed by the outlet. But online media often happens to publish news without adequately verifying the facts, partly because of the pressure to publish the news first, often bypassing the moral and professional obligations of journalism.

The paper is divided into three parts: the theoretical aspect (1), where ethics and privacy are discussed; the second part (2) deals with the legal aspects and self-regulation, which are primarily concerned with ethics in the media on the one side, and the privacy of individuals on the other. In the last part (3), the paper focuses on a case study that illustrates how mainstream online media addressed a sensitive topic in Kosovo. Consequently, the paper delves into the dilemma of respecting individual privacy – this is done regarding a case study of an X-ray image that was published showing intimate parts of Albulena Haxhiu, a politician and deputy of the Kosovo Assembly. This paper uses the purposive sampling method and comparative methods. The purposive sampling method used in the paper was required identify news articles published during February 2016. The main criterion had to do with the news that had created controversy, and whether, in our judgment, not only ethical but judiciary allegations were made. For the case study, this paper uses comparative methods to compare two online media outlets that have published the news in question.

## **The Context of the Study**

To better understand the context of this paper's analysis, it will be helpful to first present a brief sketch of the political situation during the discussed period. For over six months, between September 2015 and February 2016, the Kosovo Assembly has been an arena of clashes between the majority MPs and the opposition MPs on the issue of demarcation with Montenegro and the establishment of the Association of Municipalities with the Serbian majority. To oppose such an action, the opposition parties used various unconventional methods, including the use of tear gas in the parliament chambers.

The events at the Kosovo Assembly came after the agreement signed in Vienna between representatives of Kosovo and Montenegro to mark the border between the two countries. The opposition MPs strongly opposed the ratification of this agreement on the pretext that Kosovo was losing over 8000 square kilometers of land. The contradiction of the opposition to this agreement was expressed in various ways: through protests in the streets, during various public debates, as well as in the Assembly of the Republic of Kosovo, by stopping its ratification at any cost, even by endangering the lives of deputies. The demarcation with Montenegro also took the attention of the media as one of the most important issues in those days. The mainstream online media has continually covered these developments by reporting on those events for hours on end. The topic of the introduction of tear gas during the parliamentary sessions had received special attention from the online media. The subject of analysis in this paper are several reports about the discharge

of tear gas during the parliamentary session by the deputy of the Assembly, as well as the attempt of concealment and smuggling, the discovery of the concealed container by the media, professional reporting, privacy, and public interest. Privacy is a fundamental ethical problem for the media, and because of that this paper analyzes news articles that had also revealed sensitive data.

This paper analyzes news articles on the story mentioned above from two online media outlets – *Indeksonline* and *Gazeta Express*, whereas other mainstream online media were not included in this analysis because they just distributed the news without engaging in dubious journalistic ethics. *Indeksonline* and *Gazeta Express* are two of the main online media outlets in Kosovo. *Gazeta Express* is the number one online media channel in Kosovo according to alexa.com. Until March 2013, *Gazeta Express* had been a print newspaper and has since become the first newspaper in Kosovo that decided to abolish all print editions and to continue solely in its online version. *Indeksonline* was founded by a group of Kosovar journalists in 2010.

## On privacy

Privacy is one of the most complex issues in media reporting. Where do public interests end, and the privacy of the individual begin? This question is one of the major ethical dilemmas present in media. David Archard (2007, p. 297) has said that “privacy is about keeping personal information, by not making it public.” According to Matthew Kieran, “privacy concerns certain areas of our lives over which we exercise autonomous control and which it is not the business of right of others to concern themselves with unless we so choose” (Kieran 2013, p. 157).

Sissel Bok’s theory of privacy is more complex, because it not only focuses on information but also on who controls that information. Bok (1989, p. 10–11) defines privacy as “the condition of being protected from unwanted access by others – either physical access, personal information, or attention. Claims to privacy are claims to control access to what one takes – however grandiosely – to be one’s personal domain.”

Chris Frost, a professor of journalism, thinks similarly and emphasizes that information control is power. “It is often said that information is power, but it is just as true that control over information is power. Human dignity, certainly in part, requires the ability to control information about ourselves and if we are to have a right to dignity, we need a right to respect for privacy” (Frost 2011, p. 90).

Professor of journalism, Julie C. Innes, sees privacy associated with individual motives in intimate relationships. “Intimate matters draw their intimacy from their motivational dependency [...]. To claim that an act or activity is intimate is to claim that it draws its meaning and value from the agent’s love, liking, or care” (Innes 1992, p. 90). According to Innes, something that is done to remain intimate is private, but it is not if the same action is done for money or fame. Innes’s theory emphasizes the journalist’s ability to define, depending on an individual’s motive for making a particular action, whether it was intended for acquiring fame or was done as an intimate or private action. Professor Patrick Lee Plaisance says that “rather than emphasizing a public ‘right’ to know, journalists are

on the more solid ethical ground by assessing whether personal information would serve a ‘need’ to know” (Plaisance 2013, p. 187).

Another theory on privacy is that of the philosopher Louis W. Hodges, who illustrates the concept of privacy as the “circles of intimacy.” “The innermost circle is the most select, with only the individual and perhaps another intimate sharing secrets and private information. As the circles expand, more and more information is comfortably revealed to a broad group of people until that group encompasses the whole world, or at least the Internet” (Whitehouse 2014, p. 56). A contemporary theory of privacy is that of Robert I. Berkman and Christopher A. Shumway (2003, p. 94), who, in their book *Digital Dilemmas: Ethical Issues for Online Media Professionals*, list four areas of privacy: bodily privacy, information privacy, communication privacy, and territorial privacy.

## Legal Framework Regarding Media in Kosovo

In Kosovo, there is constitutional and legal support for freedom of the media. Kosovo guarantees and protects the freedom of the media with its highest legal act, the Constitution:

- “1. Freedom and pluralism of media is guaranteed.
2. Censorship is forbidden. No one shall prevent the dissemination of information or ideas through media, except if it is necessary to prevent encouragement or provocation of violence and hostility on the grounds of race, nationality, ethnicity or religion.
3. Everyone has the right to correct untrue, incomplete and inaccurate published information if it violates her/his rights and interests in accordance with the law” (Constitution of the Republic of Kosovo Art. 42).

Simultaneously, the Kosovo Constitution guarantees the implementation of the International Convention on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR) (Constitution of the Republic of Kosovo Art. 22). Besides the Kosovo Constitution, the Criminal Code also supports the human right to privacy and specifies in which cases it could be broken, but not provided to the public. The Criminal Code further describes penalties for those who violate an individual’s privacy by photographing, filming or recording without an authorization by the Court. “Whoever, without authorization, photographs, films, or videos or in any other way records another person in his or her personal premises or in any other place where a person has a reasonable expectation of privacy, and in that way fundamentally violates another’s privacy, shall be punished by a fine or by imprisonment of one (1) to three (3) years” (Criminal Code Art. 205). Only in some instances the media and individuals are required to provide such information, but if so, it is required by a court order that is issued relying on Article 38 of the Criminal Code, paragraph 2.1, which states that “the disclosure of information is necessary to prevent an attack that constitutes an imminent threat to life or physical integrity of any person.”

For the media in Kosovo, there are two independent regulators – the Independent Media Commission (IMC) and the Press Council of Kosovo (PCK) – but they both lack a regulatory mechanism for new media. The IMC, which is a constitutional category, handles broadcasting licenses and promotes ethical, technical, and professional standards, while the PCK focuses on the written media and protecting the freedom of expression.

The Press Council of Kosovo (PCK) is a self-regulating body and treats ethical problems as well. The decisions of the PCK always are references to court proceedings, and the professional findings of the PCK are treated as credible court expertise.

“Code of Ethics should convey a clear vision of what is ‘professional’ in journalism and what is not” (Russ-Mohl 2010, p. 305). In the absence of a regulatory body for online media in Kosovo in 2015, to cover the activity of online media, the PCK published guidelines for the print media code, adapted for those online, too. “[The] manual, intended for print and online journalism, is designed specifically for the self-regulation of print and online media, and for their editors to improve the ethical level of reporting and the journalism quality and credibility” (Press Council of Kosovo 2015, p. 1). Such a code of ethics is legally non-binding but serves as a self-regulation mechanism for the media. It contains a set of principles that journalists should respect when conducting their work. Respecting the code of ethics helps even the journalists, so they can use it as a reference when their work is judged. Public confidence is also greater, because there is the conviction that it is informed fairly and accurately. “If journalists work according to accepted ethical standards of behaviour – based on accuracy, fairness, independence, and accountability – It is unlikely that they violate the law” (OSCE 2008, p. 23). However, even with the self-regulation of media, point four of the Manual for the Press Code in Kosovo deals with privacy and the right of media when reporting on private cases:

[M]edia should not report on the private life of any person, except when there is a public interest. Reporting on public persons, in principle, is free to every sphere of their personal and professional activity, if there is the public interest. The media cannot take pictures of people in private places without their prior permission, except if there is the public interest (Press Council of Kosovo 2015, p. 4).

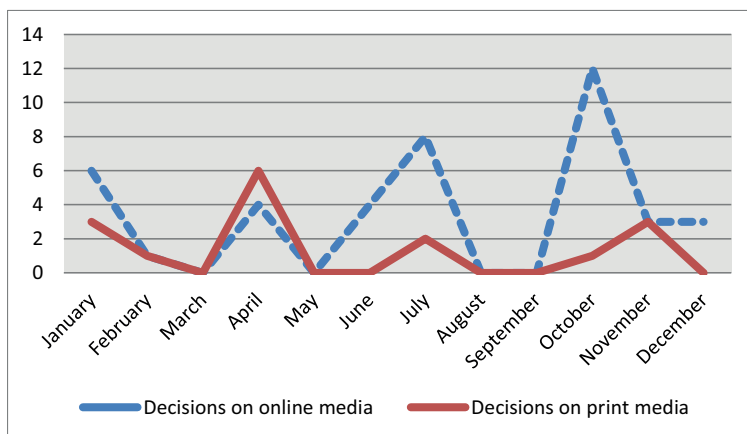


Figure 1. PCK decisions in 2016. Source: <http://presscouncil-ks.org/vendimet/>

The PCK operates as a self-regulatory mechanism and comprises media representatives -print and online media alike. This has resulted in the PCK dealing with an increased number of cases that deal with ethical violations by the online media outlets. During 2016, the Council has addressed 41 complaints against online media, while more than half fewer complaints against print media. Self-regulation offers citizens the opportunity to address their complaints regarding possible errors in the reporting by the online media (Zeneli 2013), and that address today is the Press Council of Kosovo. Citizen awareness is rising, and this can be seen in the following graph showing the filed complaints against online media reports that were sent to the Press Council. However, there are cases when people whose rights were violated do not send their complaints to this self-regulatory body but seek justice through courts of law.

The KCP does not provide penalty fines to its members, but its expertise is considered crucial during the judicial processes.

### **The Publication of an X-ray Showing Intimate Parts: the “Haxhiu Case”**

In Kosovar mainstream online media, one frequently encounters items that do not adhere to ethical values, and this happens for different reasons. An ethics violation case that had made headlines was one regarding the publication of an x-ray image of deputy Albulena Haxhiu. In this case, the opinion was divided: those who support the news claiming that the public should know how the tear gas ended up being thrown into the parliament room, and there were those who said that that the publishing of the x-ray images was an ethical violation.

Alberto Papuzzi (2007, p. 76) states that journalists “must choose between concern for documenting the details of an event and well-being of the persons involved in it.” Andrew Belsey distinguishes three groups of people and their right to privacy: famous personalities, ordinary people who suddenly find themselves offered to the public, and politicians. For public figures, whether politicians or other areas, Belsey (1992, p. 89) says that “the protection of privacy is at best very limited.”

To understand the completeness of the public personality of a politician, we can use the model made by Professor John Corner, who identifies it as “a range of flows of information from the institutional and private spheres into the sphere of the public and the popular” (Stanyer 2013, p. 13). Political and personal action (private and political/social life) determine the fame and popularity of the politician’s personal image. “The stage where, for instance, politicians develop reputations, draw varying levels of support, are judged good or bad, undergo meteoric or steady advancement, decline, resign or are sacked” (Corner 2003, p. 74). When talking about the principles and ethics of journalism, many theorists suggest that during the process of reporting, the journalist should consider some elements of ethical reasoning. The application of the principles of ethical goals includes four steps: awareness, analysis, evaluation, and assessment.

The online media outlet *Indeksonline* was the first to report on the how the opposition MP from Vetevendosje, Albulena Haxhiu, ended up smuggling the tear gas inside the

Assembly hall, in the report titled *The Gas Canister Found on Albulena Haxhiu during the Examination at the UCC* (*Indeksonline*, February 19, 2016). Furthermore, based on its resources, and contrary to the ethical theory of Aristotle's "golden mean" and the application of the principles and goals of ethics, the report mentioned above is contrary to the ethical principles and violates privacy. "After swooning in the Assembly, the MP of Vetevendosje, Albulena Haxhiu is sent to the UCC for further treatment. *Indeksonline* sources say that after the examination by the doctors, Ms. Haxhiu was found to have a tear gas canister in a sensitive part of her body" (*Indeksonline*, February 19, 2016), read the headline of the report. So, based on professional and ethical aspects, it can be considered that ethical violations occurred by infringing upon the privacy of an individual ("in a sensitive part of the body") by the imbalance of news and in support of anonymous sources that, in most cases and regarding ethical evaluation, are problematic. In another subsequent report regarding the same event, *Indeksonline* further violated the ethical principles of journalism and personal privacy by adding a new element in the report, that of "public fraud." Under the following headline – [e]xclusive: the gas canisters confirmed hidden in the body of Albulena Haxhiu (photo) (*Indeksonline*, February 20, 2016), this online media outlet, apart from recounting the events, showed an x-ray image of intimate body parts claiming to be those of MP Haxhiu, but which in fact did not belong to her. So, based on ethical theories, this case violated the rules of professional and ethical reporting. "Most reporters and editors accept that invasions of privacy have to have a sufficient justification which is not simply that of curiosity or prurience" (Sanders 2003, p. 90). This reasoning should be based on public interest, and the most contentious deontological issue should be the right to publish the report in support of the public interest by respecting the privacy of the individual. While media ethics theorists justify the publication of information relating to a violation of privacy in certain cases, the question of what is the public interest must be raised. Does an x-ray image – an improvised one – represent the public interest?

By analyzing, evaluating and judging the manner of reporting, as well as its public feedback, *Indeksonline* removed the texts analyzed in this paper and apologized to the public for a "concession by the editorial." "Initially, *Indeksonline* extends a sincere apology to MP Albulena Haxhiu and the readers of *Indeksonline* for this unintentional omission and asks that this omission is understood only as such and in no other nuances. *Indeksonline* also wants to clarify how it came to publish this news" (*Indeksonline*, February 20, 2016) – such was the editorial response apologizing for the ethical violations in the abovementioned articles. "Also, apologies from all the women who have been able to feel affected by the news in question, it has never been and is not the intention to attack them [...] it is illogical to think that there have been attacks on gender" (*Indeksonline*, February 20, 2016).

Despite the apology, this case that violates the ethical principles of journalism is not closed as indicated by the online media, and the court of law is expected to say the last word regarding a verdict. The manner of reporting of *Indeksonline* violates both of the fundamental Lambeth's ethical principles, as well as the principle of telling the truth, which state that "a journalist not only should not falsify the facts but should try to ensure their authenticity, by checking many times the collected information" (Papuzzi 2010,

p. 315), and it further violates the principle of humanism, according to which it should “not undermine another person through the news spread, both physically and psychologically” (Papuzzi 2007, p. 86) – in this case, the MP Haxhiu’s family.

Reporting on this case was continued by the online outlet *Express*, which tried to match news from the day before “reported” by *Indeksonline*, and it went to accompany the article with the images of the real x-ray image. “Albulena Haxhiu did hide tear gas inside her body” (*Express*, February 23, 2016) read the headline. In the case of *Indeksonline*, the violation of ethics started from the source of news and ran through the chain. The news was based on the anonymous sources and was accompanied by photos that were false, taken from Google Images platform. Meanwhile, *Express* did not respect the ethical standard when it published the x-ray image, thus violating the privacy of MP Haxhiu. *Express* published an article with the picture claiming it to be in accordance with the public interest – but was the public interested in knowing where exactly had MP Haxhiu hidden the teargas canister, or should it have been sufficient to identify that it were the members of the opposition who had discharged the teargas in the hall, and that they were not helped by the members of the Assembly’s security? “Some people inside the police agree with the opposition’s actions and have enabled us to introduce gas. We have enough gas, and we had put it earlier in the hall” (Zëri, October 15, 2015), said one of the deputies of Vetevendosje. The public interest was to understand that no members of Assembly’s security helped in the introduction of the gas into the hall. But the media cannot use the pretext of public interest to publish x-ray images claiming to be an MPs intimate part. In this aspect, it is increasingly important to understand how far the public interest justifies the publication of news that undermines the image, reputation, and dignity of an individual.

American professor of journalism ethics Lou Hodges suggests a formal criterion for the ethical treatment of privacy by reporters. According to Hodges (2009, p. 281), the formal criteria are “for a journalist to violate the privacy of an individual only if information about that individual is of overriding public importance and the public need cannot be met by other means.” Hodges is aware that the formal criterion is not always available and there may be exceptional cases. However, he proposes a test for journalists before taking any decisions when dealing with privacy. In the case of MP Haxhiu, by not violating the privacy of the person, the best way to publish the news would be the without the photo, but only to emphasize that the editorial possesses the medical records and, for ethical reasons, did not publish the x-ray; on another case, the editorial could use technology to hide the private parts and leave visible only the identifying characters.

Of the four areas of privacy presented by Berkman and Shumway, in the analyzed case, compromised was the privacy of the information that Berkman and Shumway have distinguished as an individual’s personal information, in this case – the medical register or medical card. On a separate occasion – the physical or bodily privacy was infringed upon as well, as we see in the publication of intimate physical parts, and the violation of privacy after the photo being taken in the hospital room, the boundaries of which are considered private.

Despite being public figures, MPs have their right to privacy. “Everyone has the right to respect, for his private and family life, his home, and his correspondence” (ECHR



Art. 8, p. 10). The privacy of an MP is limited, as they are elected officials who serve the public. However, regarding the case in question, the publication of the x-ray images resulted in the violation of the privacy of an individual. Relying on the concept of the circles of intimacy, it can be concluded that private parts are considered as secrets or very private, the publication of the images of which has undoubtedly breached said privacy.

The following headline appeared in publication shared by the online media outlet *Express*: “*Express* has the real footage from Kosovo’s University Clinical Centre, containing the patient’s name on it. The x-ray image, belonging to Haxhiu, shows a tear gas canister” (*Express*, February 23, 2016). Archard (2007) states that if a journalist arrives to possess personal information in the wrong way, they have broken the privacy of that person. In many democratic countries, the law protects individuals from “shooting secretly in places that are thought to be private [...] [or] from using the photos of people without their approval, from publishing important personal information without his/her permission, etc.” (O’Hara 2007, p. 140). Getting images from the hospital room, which is a private space, is the wrong way of doing things, while the publication of private data is another mistake. Privacy sanctioned by the Criminal Code of Kosovo protects the privacy of the person if they are photographed or filmed without authorization and if it happens in private spaces. The law for the protection of personal data protects sensitive personal data. Paragraph 2, Article 7 of this law requires any such kind of information to be encrypted during transmission and to ensure the illegibility and nonrecognition of the individual appearing in any image.

## Conclusions

Undoubtedly, privacy remains the biggest ethical problem for journalists – not only in Kosovo, but on a global scale as well. From this case study, it can be concluded that both of the online media outlets have violated both ethical principles and privacy, and that they have ceased to comply with ethical theories, legal regulations, and self-regulatory mechanisms in Kosovo.

In in the media reports from other democratic countries, we often see news with people’s faces or other parts of their bodies covered to avoid legal prosecution. Such practices should be adopted by the online media in Kosovo as well. In the case of the outlet *Indeksonline*, it was a professional fault that pushed the outlet toward the deception of the public; this cannot and should not happen. Regarding the handling of the case in question by the online media outlet *Express*, we can conclude that to be fair ethically and professionally, *Express* had to first take a statement from the person in question and publish the news without including the x-ray image, instead emphasizing that it had the MP’s medical file with the x-ray images but did not publish it for ethical reasons. In case that the person in question would have denied the news, the public would have asked for the evidence, and, seeing as the duty of a journalist lies in making news reliable, the outlet could have published the x-ray containing the name of the person in question, but the intimate parts of the person could have then been blurred – there would be no ethical violation in this kind of scenario, as the media outlet would seek to convince its readers

by providing the proof. There is no question that the publication of the x-ray is intimate and damages the dignity of the person, but the interference in the individual's private life for the public good could be justified by the fact that it would then solve the dilemma about how the tear gas ended up inside the Assembly Hall.

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