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The balance between freedom of expression and the right to respect private life. Are the Internet news portals considering it?

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The road to information is being transformed due to the internet evolution. In the digital era, the role of the mass media as a “watchdog” or “fourth estate” is increasing and it is essential to inform the citizens about public concerns, investigate government actions, to expose fraud and corruption. At the same time, a large number of the Internet news portals do not engage in sharing qualitative information but prefer to share information about people’s private lives.

Freedom of expression and information is a fundamental right and according to the [Charter of Fundamental Rights of the European Union](#), the freedom and pluralism of the media shall be respected. Media is a very important instrument that disseminates information and has a function of opinion shaper; this is significant to a democratic society. As the ECtHR stated for the first time in [Handyside v. United Kingdom](#): ‘Freedom of expression constitutes one of the essential foundations of [a democratic] society, one of the basic conditions for its progress and for the development of every man.’

The power of media and the Internet news portals to disseminate information within seconds to a very large number of persons sometimes can be worrisome. We are witnessing that this power sometimes can be abused, and as a result, it can be harmful. We can say that this abuse often is done by the Internet news portals that sometimes do not work by the rules and publish information that can invade a person’s privacy or destroy his or her reputation. Sometimes, they even go beyond journalistic ethics. Regarding this issue, in the case of [Novaya Gazeta and Borodyanskiy v. Russia](#), ECtHR stated as follows: ‘In a world in which the individual is confronted with vast quantities of information circulated via traditional and electronic media and involving an ever-growing number of players, monitoring compliance with journalistic ethics takes on added importance.’

The Internet news portals should abide the law and respect the rights of others, so there should be limitations on freedom of expression due to the rights of others. Unfortunately, in Kosovo, the Internet news portals often do not consider the balance between the freedom of expression and the right to a private life and publish news that can infringe the right to privacy.

Among many problematic issues, we should also raise our voice towards the way of reporting suicide in Kosovo by the Internet news portals. Many times, they publish excessive information about the identity of a person who committed suicide. Reporting suicide should be done carefully since it is a sensitive issue and journalists should always take into account that reporting may increase the risk of vulnerable people choosing to take their own life. It is important to report a suicide by respecting journalistic ethics since it is a sensitive and significant issue to the public health concern.

In Kosovo, according to the [Kosovo Agency of Statistics](#), in 2019 there have been 39 cases of suicide. In the world, more than 700.000 people die to suicide [every year](#). That is why we can say that suicide is a serious problem but it can be prevented with the right, effective national responses. The sensational and excessive report, such as explicitly describing the method can lead to imitational suicidal behavior among vulnerable people. For example, after the suicide of the famous actor Robin Williams, the suicide rate in the USA had been increased [by 9.85%](#).

Many times, while reporting a suicide, the Internet news portals have published names, family names, and excessive information on how the suicide has been committed. The identity of the person who committed suicide is not a public concern and publishing it can cause harm, not only to the family of the person but also to the persons who can find similarities and maybe can imitate. In the past weeks, in Kosovo, we had a case that brought up the name of a person who committed suicide one year ago. Recalling one more time, all over again pictures of the person,

the way of how the person committed suicide, and a story about the relatives can cause many problems. The media published this story and made a connection of the suicide from one year ago to a recent case of murder. Publishing names and publicly judging persons who are not still declared guilty by the court is quite problematic and not in accordance with the law. The Internet news portals should not be able to break the right of a person's private life. This is against Law on Protection of Personal Data, which is in force and should be implemented. [Law on Protection of Personal Data](#) states that the processing of personal data shall be lawful only if it fulfills certain criteria; one of them is the given consent by the data subject to the processing of his or her personal data for one or more specific purposes. Otherwise, the processing breaches the Law. Processing means any operation or set of operations performed to personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, [disclosure by transmission](#), dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Who should react and monitor the way that suicide is being reported by the media and the Internet news portals?

Unfortunately, to this date, in Kosovo, there is not much being done towards respecting Law on Protection of Personal Data, especially in the online world. There is not a state institution that has oversight over the Internet news portals. One state institution regarding Media is the Independent Media Commission, which is an independent body responsible to regulate, manage and oversight of the broadcasting frequency spectrum in the Republic of Kosovo. However, it is mandated by the [Law for the Independent Media Commission](#) to only regulate and oversight audiovisual media services and broadcasting frequency spectrum. On the other hand, the [Regulatory Authority of Electronic and Postal Communications](#) even though in its mission it is stated that it ensures protection of personal data and especially the right to privacy and the processing of personal data in the sector of electronic communication, it has not done much. Regarding this issue, the [Press Council of Kosovo](#) has taken decisions that confirmed the breach of privacy and the Law on Protection of Personal Data. However, this Council is a non-governmental organization, a self-regulatory body founded by the media sector in Kosovo and it aims to protect the citizens from false information and the journalists from baseless complaints. Therefore, the decisions of this body do not have executive power.

However, the responsible authority to supervise the implementation of the Law on Protection of Personal Data is the Information and Privacy Agency and it is mandated to inspect and audit on its own initiative. Yet, we have not seen any reaction towards the Internet news portals. In the situation that we are in now, seems that the Internet news portals do not give responsibility for the infringements of privacy and the law in force in Kosovo, also about breaking the journalistic code. The state should take measures and improve the implementation of the Law on Protection of Personal Data. The balance between the freedom of expression and the right to a private life should be monitored by a state institution. As ECtHR stated in the case of [Cumpana and Mazare v. Romania](#) in order to have a right from states authorities to interfere there should be done a test of "necessity in a democratic society". The court, also stated that the state may require to adopt positive measures to ensure a fair balance between, on the one hand, the protection of freedom of expression as enshrined, and, on the other hand, the protection of the right to private life.

The Internet media portals should take responsibility for their infringement for the unlawful processing of personal data. Especially the way they report on suicide should be done in accordance with journalistic ethics and the law in force. Also, the Information and Privacy Agency should react in accordance to the competences given by the [Law on Protection of Personal Data](#), and carry out inspection and audits on its own initiative to monitor the compliance with data protection rules.

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