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# Legal and Ethical Regulation in Slovakia and Its Relation to Deliberative Communication

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## Abstract

The offered social-scientific analysis is based on a critical discussion of key problems present in the Slovak media environment, such as the ethical self-regulation of the media, freedom of expression, the right to obtain information, or the legal protection of the sources of information. The study also refers to available scholarly sources and the previously published body of knowledge to assess the development of the media system in Slovakia over the past 30 years, outlining the country's (in)ability to foster deliberative communication and democracy. The results suggest that the legal and ethical aspects of the Slovak media system do support some of the principles of deliberative communication, specifically freedom of expression and free access to information; however, free speech is not sufficiently confronted with the boundaries of protecting privacy and human dignity to prevent defamation and hate speech. Media autonomy based on the possibility of self-regulation is not sufficiently developed either. A serious problem is the lack of transparency in the media.

## Keywords

deliberative communication; media; media accountability; media ethics; media legislation; Slovakia

## 1. Introduction

Slovakia's recent history is marked by the authoritarian structure of the media system, in which state media were ideologically influenced by political authorities and no private media ownership was allowed. The adoption of a dual broadcasting system (i.e., the co-existence of privately owned media outlets and public service broadcasters) is generally seen as the breaking point and basic precondition of establishing

freedom of speech and expression in Slovakia (Višňovský et al., 2022). Slovakia witnessed the rapid development of private media ownership and gradual penetration of the media market by foreign investors and international media companies in the 1990s. These circumstances have resulted in massive economic changes in terms of media entrepreneurship, as well as in new legal and ethical challenges following the country's ambition (or rather struggle) to strengthen its emerging ties to the Western cultural framework.

The study works with the assumption that the legal and ethical mechanisms regulating and forming the Slovak media environment are crucial factors that influence the state of democratic discourse and public communication in Slovakia. As we believe, many key opportunities and risks which obviously support or, in turn, limit deliberative principles in the country, have resulted and continue to result from the national legislative regulation and ethical elements of media communication.

Offering a theoretical overview of the most important aspects shaping the Slovak media system in terms of its legal and ethical configuration, the study focuses on a range of issues. To explore the role media legislation and ethics play in the processes of advancing deliberative communication and democracy in the country, we refer to the existing body of knowledge and research, as well as to a number of legal documents and practical examples. Our aim is to thoroughly discuss the development of the Slovak media system in relation to progressively emerging legal and ethical issues. Section 2 offers various scholarly perspectives on the term *deliberative communication*, explaining its associations with the existing knowledge on media systems and the ways in which they are regulated. In Section 3, our ambition is to consider the essential legislation constituting Slovak media law, its positive aspects and shortcomings. Furthermore, we offer insight into various types of regulatory and self-regulatory mechanisms and ethical codes applied by media outlets operating in Slovakia. The study identifies key problems associated with legislative and ethical challenges tied to the Slovak media environment, outlining to what extent current Slovak legal regulation of the media supports or does not support the ideal preconditions for and values of deliberative communication.

The article employs a legal analysis of regulatory documents and a wider generalisation to discuss relevant topics and explain the connections between them. These are used to better outline the historical framework of the topic and the contemporary situation. The study is largely theoretical, aiming to comment on data obtained by Gálik et al. (2023) on the current state of deliberative communication in Slovakia, as well as available domestic academic and professional reflections on the issues in question.

## 2. Theoretical Framework

The contemporary situation within the Slovak media system does not comply with the general scholarly understanding of the terms “deliberative democracy” and “deliberative communication.” Even though the concepts seem to be interconnected with a variety of current society-wide problems, their essential roots were explained decades ago by Habermas (2015) in his seminal work on the structural transformation of the public sphere. Habermas's model of deliberative democracy, in which democracy is developed and protected within the public sphere and civil society, was further elaborated and clarified by Benhabib (1991), who adapted the concepts to the cultural and political realities of the 1990s, explaining Habermas's utopianism evident in his understanding of communication ethics. Healy (2011) acknowledges that deliberation represents the noble ideals of achieving inclusiveness, responsiveness, transparency, and accountability of

sociopolitical decision-making that seem to be crucial in terms of revitalising democracy. These principles must also apply to the ways a country's (media) legislation is created and ethical standards are formulated and practically realised. We examine the ideals defined above to find out how they are (or are not) supported by media legal and self-regulation in Slovakia.

In Slovakia, the concept of deliberative communication is neither well-known nor widely used to discuss the principles of democratic public discourse. If we consider the work published by Ferree et al. (2002) on four models of the public sphere in modern democracies, the country's public sphere could be best defined as representative-liberal, based on the belief that ordinary citizens are poorly informed and generally ill-equipped for political participation:

Citizens need policy makers [sic] who are ultimately accountable to them, but they do not need to participate in public discourse on policy issues....Hence, it is both natural and desirable for citizens to be passive, quiescent, and limited in their political participation in a well-functioning, party-led democracy. (Ferree et al., 2002, p. 290–291)

Harro-Loit et al. (in press) define four ideal preconditions for deliberative communication to develop and thrive. These include mutual respect in communicative interactions, i.e., participants' readiness and willingness to listen to and understand each other's opinions (respect towards human dignity and non-violence). Moreover, the absence of power should grant these participants the freedom to express their differing opinions without fearing any sanctions or threats—this principle is closely related to trust in the media and their autonomy in terms of self-regulation and public accountability. The third precondition is equality; everyone should be equally free and able to express their stance (impartiality and diversity should be granted). Another important precondition to consider is the idea of reasoning-based arguments not disrupted by persuasive communication acts and hidden agendas (commitment to telling the truth, freedom of expression, media transparency).

The current political and sociocultural situation in Slovakia does not support many of the basic principles of deliberative democracy. The desirability of a public sphere is generally accepted, but public participation is seen as a process which should be limited and largely indirect. This lack of transparency and openness has serious consequences. Školkay and Ondruchová-Hong (2012) explain that Slovak laws are often drafted within specialised, but isolated ministry departments, without consulting new legislative norms with the wider professional public and other interested actors. New legal acts “frequently contain severe inconsistencies and shortcomings and need to be amended shortly after, and sometimes even before they come into force” (Školkay & Ondruchová-Hong, pp. 193–194).

Moreover, in domestic academic circles, theoretical reflections or empirical inquiries specifically focused on deliberative (media) communication in the country are scarce and none of them were published prior to 2021. The meta-analysis conducted by Gálik et al. (2022) is the first focused attempt to adapt the concept of deliberative communication to Slovak reality and assess the state of deliberative democracy in Slovakia. The obtained results suggest that even though Slovakia has recently taken important steps towards strengthening deliberative communication, the existing scientific discussions on deliberative media communication are vague, scattered across various disciplines, largely theoretical and descriptive, limited to studies on partial problems which are directly or indirectly connected to, above all, media related competences and journalism in general. According to Gálik et al. (2023), from 2000 to 2020, Slovak authors

published only 267 academic, non-academic, and professional information sources and publications which are specifically related to legal and ethical regulation of the media. This number also represents the considerably lower level of interest of Slovak scholars and professionals in the given topic in comparison with numerous academic and non-academic outputs addressing media usage patterns (292), journalism (376), or the often-discussed media related competences (416). However, this uneven distribution of scholarly and professional attention towards topics associated with deliberative communication has not been so evident over the last two years. For example, Škarba and Višňovský (2022) warn of serious threats to domestic deliberative communication, not only from disinformation chaos but also from authoritarian sentimentality in the country.

Each national media system is, in a way, unique and culturally specific. In the field of media law, we may mention a number of Slovak publications interested in specific topics and the country's particularities. For example, Drgonec (2008) provides essential scholarly understandings of media law and relevant terminology in domestic contexts, considering the latest legislative developments. Kerecman's publication (2009) includes a collection of practical advice for journalists, PR specialists, or spokespersons. Lincényi (2017) offers a rare attempt to explain and assess both legal and ethical aspects related to publishing daily newspapers in Slovakia. The work establishes a critical debate on the consequences of the limited extent to which media ethics is applied in Slovakia. Although erudite commentaries explaining individual regulatory mechanisms and legal acts associated with the media were long overdue and still do not cover all relevant norms, there are specialised publications written in order to examine the strengths, weaknesses, and widely disputed aspects of the 2000 Act on Broadcasting and Retransmission (Kukliš & Tarabčák, 2016) or the 2008 Press Act (Vozár et al., 2021). The latest addition to the available scholarly literature is Višňovský et al. (2022) monograph on multiple Slovak media industries (the press, radio, television, and internet) and their economic status and legal regulation.

The problems discussed in Section 3.2 are closely associated with the notions of media regulation and self-regulation. Chandler and Munday (2011) explain that media regulation can be defined as control and supervision of (media) organisations which is exercised by external authorities, predominantly by government bodies. This process is complex and includes both direct interventions and the measures taken by government-appointed regulators. In contrast, self-regulation occurs within the media industries or specific media outlets. Organization for Security and Co-operation in Europe (n.d.) declares that self-regulatory mechanisms are independent from government control and designed to increase the quality of media. These mechanisms consist of codes of ethics, press, and media councils, complaints commissions, and in-house ombudspersons. Government regulation is typically understood as the imposition of restrictions (Chandler & Munday, 2011), but its purposes reach far beyond these boundaries, from stimulating domestic media production, through strengthening content diversity, to increasing programme quality. Matei et al. (2021) claim that (media) regulation cannot be perceived as "a narrow set of limiting rules or enforceable laws" (p. 2).

Unlike legislative regulation of the media, media ethics is based on varying sets of ethical standards and rules that individual media outlets and journalists often follow voluntarily, not because they are legally binding. Regarding the systematic analysis of the ethical aspects of media production, the body of academic literature published in Slovak (or focused on Slovakia) is, again, quite modest. We may mention Remišová's (2010) work which is generally considered as the first comprehensive attempt to address media ethics in Slovakia and the ethical standards Slovak media professionals should respect. The author defines media

ethics as a complex phenomenon, analysing its functions and micro- and macro-levels. Hajduk (2016) discusses normative media theories and the ethical and philosophical principles of media institutionalisation in Slovakia. According to him, media institutions need to develop functional sets of ethical principles in order to strengthen their own social responsibility and ability to contribute to social justice and recognition. Švecová and Kukumbergová (2020) apply the general principles of media ethics to the digital environment, especially in relation to digital gaming, presenting a unique perspective on new ethical challenges driven by digital entertainment. The publication written by Gáliková Tolnaiová (2022) is especially important as the author reflects on a range of current problems related to ethical and philosophical contexts of communication, media, and information in relation to the domestic media environment. The author is focused on the most advanced media technologies and new ethical challenges they pose, trying to anticipate which ethical principles will have to be revised and reassessed in the near future.

Even though we have to acknowledge that Slovakia currently cannot be perceived as a young democratic country able to fully explore the possibilities of deliberative democracy, some of the mentioned sources might serve as the necessary foundation for making Slovak media space more participatory and deliberative.

### **3. Risks and Opportunities for Deliberative Media Communication in Slovakia: Legal and Ethical Considerations**

The rather short history of the contemporary media system in Slovakia started to unfold after the dissolution, i.e., the self-determined, peaceful split of the Federal Republic of Czechoslovakia and the consequent formation of the autonomous Slovak Republic, defined basic operational variables related to media law, such as freedom of expression, prohibition of censorship, and (private) media ownership. According to Brečka (2002), legislators interested in the field of media law faced many challenges between 1989 and 1993, striving to create democratic mechanisms regulating media based on the principles of a pluralistic society.

Freedom of expression and the right to obtain information, i.e., the pillars of the principle of reasoning-based arguments in communication, were guaranteed by the Charter of Fundamental Rights and Freedoms. We may also mention the most relevant legal acts such as Act No. 468/1991 Coll. on Operating Radio and Television Broadcasting (National Council of the Slovak Republic, 1991d), Act No. 254/1991 Coll. on Slovak Television (National Council of the Slovak Republic, 1991b) and Act No. 255/1991 Coll. on Slovak Radio (National Council of the Slovak Republic, 1991c). These legal norms heavily contributed to achieving a plurality of opinions in the media environment and eliminating the state media monopoly. In this context, a transformation of the already existing media outlets into independent and pluralist media institutions was also essential. However, denationalisation, privatisation, and deregulation of their ownership were complicated; this gradual process is still not finished. In this third section, we mention the media legislation that influences the current shape of the media environment.

#### **3.1. Slovak Media Legislation**

It is necessary to mention Act No. 308/2000 Coll. on Broadcasting and Retransmission and on Amendment of Act No. 195/2000 Coll. on Telecommunications (National Council of the Slovak Republic, 2000) that defined specific legal conditions related to broadcasting and retransmission in Slovakia, outlining the status and competence of the newly established Council for Broadcasting and Retransmission, an administrative body

meant to execute nationwide regulation of TV and radio broadcasting and outline their accountability. Thanks to that, the principle of absence of power in communicative relations was addressed partially. In contrast, the highly anticipated 2008 Slovak Press Act (National Council of the Slovak Republic, 2008) did not avoid criticism from the journalistic community. The NGO Public Policy Institute saw this piece of legislation as “settling the score,” i.e., as an attempt by political elites to eliminate public criticism of the political situation in Slovakia initiated by journalists and publishers (Slovenská informačná a tlačová agentúra, 2008). Publishers of periodicals, as well as the professional public, criticised the ways the right to correction, right to reply, and right to additional notice were formulated and warned against possible attempts by politicians and oligarchs to abuse these new obligations of publishers and news agencies (Ďuračková & Stahovcová, 2008). The legislation was supposed to eliminate any threats associated with mutual disrespect in communicative relations (such as attempts to compromise one’s dignity through defamation and hate speech); on the other hand, some of the aforementioned expert opinions saw it as a possible menace interfering with the principle of reasoning-based arguments in communication (i.e., truth, freedom of expression).

In 2010, Act No. 532/2010 Coll. on Radio and Television of Slovakia (National Council of the Slovak Republic, 2010) amended the mission, functioning, and legal status of the Slovak public broadcaster, Radio and Television of Slovakia, which was established in 2011 following the merger of Slovak Television and Slovak Radio. This merger aimed to improve financial and organizational efficiency.

In 2022, Act No. 264/2022 Coll. on Media Services (National Council of the Slovak Republic, 2022b) replaced Act No. 308/2000 on Broadcasting and Retransmission (National Council of the Slovak Republic, 2000). The former Council for Broadcasting and Retransmission was succeeded by the Council for Media Services with new competences and authorities (Rada pre mediálne služby, n.d.), especially over internet-distributed broadcasting, streaming, and content-sharing platforms. All media outlets operating in Slovakia, public and privately owned alike, have to register as partners of the public sector, regardless of how they are financed. This update is meant to strengthen the principle of reasoning-based arguments in communication, especially media transparency.

Furthermore, Act No. 265/2022 Coll. on Publications (National Council of the Slovak Republic, 2022c) replaced the heavily criticised 2008 Press Act. Unlike its predecessor, this legal norm recognises and regulates not only print newspapers, magazines, and agency news, but also web portals and other digital platforms publishing news and opinions. Applying advanced regulatory elements including self-regulation, the act addresses issues of transparency of media ownership and financing more thoroughly than its predecessor. It thus enables the general public to obtain concrete information on media ownership and financing in Slovakia, also supporting the aspect of truth by establishing clear, efficient measures to separate advertising from editorial content such as news.

### ***3.2. Ethical Standards Applied in the Slovak Media System***

The state of media legislation in Slovakia has recently improved, but ethical standards in media production, which regulate the principle of power in communication relations, still remain problematic. Gálik et al. (2023) identify 123 academic and non-academic sources published between 2000–2020 that are interested in journalistic ethics and 48 publications which address codes of (media) ethics in a more general manner. The level of attention paid to this topic is, by far, higher than in terms of other serious problems persisting in



the Slovak media system such as the protection of personal data (18 sources published from 2000 to 2020) or access to information/documents (10 sources), which obviously remain overlooked (Gálik et al., 2023).

Probably the most known and well-established industry-level ethical standard in Slovakia is *The Code of Ethics for Journalists* defined by the Slovak Syndicate of Journalists (Slovenský syndikát novinárov, 2011). Its previous version was elaborated in 1990, defining how the absence of power in communication relations should work in practice. However, the Syndicate has been experiencing financial problems and internal conflicts, which seriously undermine its former moral authority and sociocultural importance in the eyes of both the professional and general public. Nevertheless, it cannot be denied that the Syndicate established the first set of media ethics standards of the post-communist era in Slovakia and later worked on adapting them to digital media. *The Code of Ethics for Journalists* is also shared and promoted by the Press and Digital Council of the Slovak Republic which is the executive body of the Association for the Protection of Journalistic Ethics (Tlačová rada Slovenskej republiky, n.d.). The Council is an important influence in terms of the ethical self-regulation of journalists in Slovakia, addressing complaints that report violations of the principles of journalistic ethics. Scholarly interest in press and media councils has been low, with 15 publications by Slovak authors published from 2000 to 2020 (Gálik et al., 2023).

In Slovakia, there are multiple non-profit organisations which publicly discuss and analyse unethical practices utilised by the media. We may mention NGOs such as the Institute for Public Affairs, Transparency International Slovakia, the Fair Play Alliance or the Open Society Foundation. However, their authority in terms of correcting these ethical failures is little to none. The largest professional association active in the Slovak digital market, Interactive Advertising Bureau Slovakia ([IAB Slovakia], 2015), applies its own code of conduct related to downloading content on the internet. IAB Slovakia has its own ethics committee (IAB, n.d.) consisting of media professionals and experts on ethical online behaviour and the association's most notable achievements in terms of media ethics also include *The Ethical Code for Electronic Media* (IAB Slovakia, 2010) and *Influencer Marketing Code* (IAB Slovakia, 2022). This suggests that the notions of trust, autonomy, and accountability, tied to the principle of absence of power in communicative relations, have recently been redefined and successfully applied to specific fields of media practice.

However, Školkaý and Ondruchová-Hong (2012) remind us that various attempts to establish co-regulation and self-regulation of Slovak journalists have been rather unsuccessful, stating historical memory and business pressures as the main reasons why. The logical disadvantage of ethical codes is that they are voluntary. However, practically all established and relevant Slovak media respect some codes of ethics and modify them according to their current needs. Several media organisations do not have their internal codes of ethics publicly available, with the exception of the daily *SME* ("Etický kódex denníka," n.d.) and the publishing house News & Media Holding (n.d.). Many other publishing houses (e.g., N-Press, 2022) apply the *Journalist's Code of Ethics* as defined by the Slovak Syndicate of Journalists (2011).

The modifiability of ethical codes might be perceived as a risk because some of the originally formulated ethical principles could be omitted or changed based on the given media outlet's objectives and philosophy. On the other hand, it is positive that practically all established and relevant Slovak media respect some ethical codes and modify them in accordance with their current needs. In contrast, disinformation producers and conspiracy media rarely respect any codes of ethics and do not even acknowledge their existence, ignoring the principles of reasoning-based arguments in communication and mutual respect in communicative interactions.



The decisions and commentaries published by the Press and Digital Council of the Slovak Republic, or NGOs are only of a recommendatory nature. A possible solution could be the establishment of a media ombudsman's office, similar to the one in the Czech Republic, or another executive body that would be independent of government structures and would possess not only the ability to comment on media codes of ethics and their suspected violations, but also to confront these violations with specific sanctions defined in media legislation. However, this suggestion would be hard to implement, given that between 2000–2020, not a single academic or professional information source on ombudspersons was published by Slovak authors (Gálik et al., 2023).

### **3.3. Sources of Risks and Opportunities for Deliberative Media Communication in Slovakia**

Considering the legal aspects of the Slovak media environment outlined above, there are multiple shortcomings that require both professional reassessment and scholarly attention. Firstly, these include the previously non-existent, fairly recent adoption of legal measures which should improve the public availability, comprehensiveness, and accuracy of the information on media ownership and financing media outlets, i.e., media transparency. Secondly, the Slovak public sphere has witnessed multiple attempts by political elites to restrain freedom of expression. Thirdly, which has not been discussed enough in Slovakia, is the protection of information sources (or its long-term lack thereof). These problems mostly limit fulfilling the principle of reasoning-based arguments in communication, especially in relation to the fundamental values of freedom and transparency.

#### **3.3.1. Media Ownership Concentration and Lack of Plurality**

The media market in Slovakia exhibits a degree of concentration, primarily attributed to the country's small size, which enables larger media companies to operate with greater efficiency and productivity (Čábyová & Krajčovič, 2022; Radošinská et al., 2020). Prior to the adoption of Act No. 264/2022 Coll. on Media Services (National Council of the Slovak Republic, 2022b), there was no adequate legal regulation regarding cross-ownership in the media sector. Urbániková's (2022) research report claims that the concentration of news media in the country achieves a high-risk level (79%). The category of media market plurality reached an unsettling score as well (high risk—68%). The author also argues that in 2021, data on market shares (based on revenues) within specific media sectors was neither published nor collected. The effectiveness of legal countermeasures was thus unclear. However, the concentration of the press, audio-visual production, and radio communication was obviously substantial; the combined market share of the four largest media groups active in Slovakia reached 60%. Data on online content providers and their market shares and revenues was entirely unavailable.

The public still exerts only limited pressure on publishers and broadcasters to act transparently and disclose potential conflicts of interest. The Slovak media frequently published vague reports regarding their owners and donors without adequately disclosing pertinent information about their interests or personal connections. Considering this, it is quite surprising to find out how little scholarly and professional attention has been paid to these problems over the last 20 years. Gálik et al. (2023) identify just nine information sources published in Slovakia which are interested in media ownership and its transparency. This lack of academic interest only makes achieving the principle of reasoning-based arguments in communication (media transparency) harder and less probable.

Until 2000, there was no legislation addressing the concentration of media ownership. In 2000, legislation on cross-ownership of media was adopted, prohibiting the simultaneous ownership of radio or television and the publication of newspapers or magazines. However, horizontal ownership of media was still permitted, enabling individuals to own multiple radio stations or television channels. The problem persists in the new Act. No. 264/2022 Coll. on Media Services (National Council of the Slovak Republic, 2022b) which concerns digital content providers and sets rules regarding their position in the media market and obligations. All publicly funded and private media must be registered in the list of public sector partners. The aim is to ensure diversity of information and transparency of media ownership. The regulator monitors the ownership links and employment relationships of media registered in Slovakia and their content providers. The Centre for Media Pluralism and Media Freedom (2022) noted an improvement in the transparency of media ownership in Slovakia, changing it from high risk to medium risk.

### 3.3.2. The Influence of Politicians and Lack of Trust

Školkay and Ondruchová-Hong (2012) explain that the personal involvement of Slovak prime ministers has become “a typical feature of media regulation in Slovakia” (p. 194), especially when the country’s governments were led by illiberal and populist politicians. This trait has led to “a spread of authoritarian ad hoc policies” (Školkay & Ondruchová-Hong, p. 192). Moreover, Štětka (2012) points out that Central and Eastern European democracies have observed a growing trend wherein local tycoons have invested in media outlets not primarily to generate profit, but rather to advance their business or political agendas. Urbániková (2022) specifically mentions the Speaker of the Slovak National Council and media mogul Boris Kollár who owns two out of the four radio stations with the highest audience share in Slovakia.

The current legislation does not address such conflicts of interest in the media sector, which means that there are no legal restrictions to prevent political interest groups from engaging in media entrepreneurship either directly or indirectly. According to Transparency International Slovakia (2022), another concerning fact is that many local and regional media financed and operated by self-governing bodies and local authorities lack political independence. Their content is often heavily distorted in order to support the current political representation. The Centre for Media Pluralism and Media Freedom (2022) sees these aspects as the main reasons why Slovakia scores a concerning 56% in the sub-indicator associated with conflict of interest. These facts undermine the principle of equality in communicative freedom, as well as the principle of desired absence of power in communicative relations.

Chlebcová Hečková and Smith (2023) define the Slovak media scene as turbulent, being marked by continued attacks on journalists by politicians. However, incidents resulting from the professional and ethical misconduct of journalists are not rare either. The trust of the Slovak people in news is indeed very low (27%), and the authors claim it is an inevitable result of business and political leaders’ interference blocking the healthy and independent development of the country’s media environment.

### 3.3.3. Freedom of Expression and the Right to Access Information

Related to the principle of reasoning-based arguments in communication, freedom of expression and the right to access information are among the fundamental rights and freedoms guaranteed by the Constitution of the Slovak Republic (National Council of the Slovak Republic, 1991a). Any interference with the media

content provider's right to freedom of expression is exercised by the state only in order to ensure the aforementioned protection of the rights and freedoms of others or in legitimate public interest, based on strict criteria. However, it would be optimal to increase the extent to which some of these topics are discussed by Slovak scholars and professionals. From 2000–2022, access to information/documents was rather overlooked; there were only 10 sources to consider. This number is in sharp contrast with the five times larger amount of attention paid to freedom of expression (Gálik et al., 2023).

As discussed in Section 3.3.1, Slovak media legislation has partly addressed the previous lack of transparency regarding media ownership ties in the country. However, the mentioned shortcomings of the 2008 Press Act are closely associated with this issue. Specific parts of this legal norm were formulated in ways which encouraged or maybe even invited politicians and other public figures to exercise certain rights excessively. For example, the right to reply was granted to natural persons and public/government officials alike; the problem was that this particular right ordered the media to publish “replies” even if the initially published information was truthful, complete, and accurate, but also related to honour, human dignity, or privacy and the good name of a legal or natural person. This questionable measure was amended in 2011; the right to reply was granted to natural persons only, excluding active politicians. However, during the politically turbulent period marked by the murder of the young investigative journalist Ján Kuciak and his fiancée, the following public protests and inconvenient media criticism of the then-ruling political parties, the right to reply was amended again, in favour of politicians. However, it was granted only in cases when the initial information was inaccurate or otherwise incomplete and distorted, associated with a person's honour, dignity, or privacy and good name.

According to Beláková (2013), manipulating legislation to suppress media criticism is always risky. The case of the re-editing of the right of reply shows how Slovak politicians use management strategies in the media to deflect criticism. The main objection to the inclusion of public officials in the right of reply is their position of power and their obligation to be accountable to the media and the public. Especially if applied to politicians and other public figures, this particular right shows how unclear and thin the boundaries separating truth and free speech from privacy invasions and expressions of hate speech truly are.

#### 3.3.4. The Right to Additional Notice and the Right to Statement

The right to additional notice, preserved in the current Act on Publications, follows a situation when a news outlet or news agency issues a factual statement about a person being investigated by a public authority, based on which the person can be precisely identified. Later, when this probe is closed by a final decision, the person concerned has the right to request the publication of an additional notice clarifying the final outcome of this procedure, e.g., in case the allegations raised against them have not been proven. Its main purpose is to serve in favour of the principle of reasoning-based arguments in communication—specifically truth and transparency.

In the 2022 Act on Publications, the newly established right to statement replaced the right to correction and the right to reply, both included in the previous legislation. The right to statement is applied if a false or incomplete statement/fact that interferes with the honour, dignity, or privacy of a natural person or endangers the good reputation of a legal person, on the basis of which the person can be accurately identified, is published by a news outlet or news agency. This person has the right to publish their own statement. Publishers of print or online news media or press agencies are obliged to publish the statement as requested, free of charge. Once again, politicians and public and government officials are included as eligible requesters.

Regardless of their potentially problematic application in relation to political elites, the right to statement and the right to additional notice can still be considered important tools that represent the basic principles of deliberative communication. Surprisingly enough, despite the widespread public criticism associated with the 2008 Press Act, closely associated topics such as defamation and hate speech are not frequently discussed by Slovak scholars and/or professionals. In fact, Gálik et al. (2023) identify only six publications centred on defamation and 25 sources addressing hate speech. This scarcity of focused academic and professional discussions during the previous two decades is probably why there are no relevant data or research inquiries that would document the extent to which these rights have been exercised by politicians and regular citizens. The lack of knowledge means that any critical remarks on political elites abusing these rights are purely hypothetical.

### 3.3.5. Protection of Information Sources

Protection of information sources, associated with principles of truth and the freedom of expression, but also with issues of privacy protection and data protection, was insufficient prior to the adoption of the Act on Media Services (National Council of the Slovak Republic, 2022b) which defines the obligations of content providers and individuals involved in obtaining or processing information from confidential sources, such as whistleblowers, protecting their identity. The content containing such information must be publicly presented in a manner that preserves the anonymity of the source. Only the individual who provided the information can release the party maintaining confidentiality from this obligation by giving their consent. This protection extends to courts, public authorities, public administration bodies, and local government authorities unless disclosing the source of information is required by law to prevent criminal acts. The same principles are also defined in Act No. 265/2022 Coll. on Publications (National Council of the Slovak Republic, 2022c).

Whistleblowers may face (cyber)bullying or threats posed by their employers, supervisors, colleagues, or third parties after they decide to publicly uncover otherwise confidential information obtained within their work obligations. Their legal protection is now ensured by Act No. 54/2019 Coll. on Protection of Whistleblowers (National Council of the Slovak Republic, 2019), aiming to eliminate harmful practices and support courageous, responsible employees. More than half of the Slovak population perceives whistleblowers positively (Kovanič & Chovancová, 2022); 90% of publicly funded organisations have established whistleblowing systems, complying with the legislation, yet the culture of not reporting frauds and criminal activities prevails (Kovanič & Chovancová, 2023). Many Slovak people obviously believe they will not receive the necessary protection after becoming whistleblowers. Zuzana Hlávková's case is mentioned quite often as a frightening example. Hlávková, who reported dubious practices related to public tenders at the Slovak Ministry of Foreign Affairs where she was employed, was publicly threatened by a top government official (Šípoš, 2016).

It does not help that domestic academic and professional debates on the problem of protecting information sources (and specifically whistleblowers) are practically non-existent. From 2000 to 2020, Slovak scholars and professionals published just eight outputs on the protection of information sources and only one focused on whistleblowers in particular (Gálik et al., 2023). The academic and professional indifference towards this problem poses a considerable threat to the development of deliberative media communication in the country.

### 3.3.6. Lack of Transparency While Eliminating Harmful Online Content

In response to the increase in false information during the armed conflict in Ukraine, Act No. 231/2022 Coll. on Cyber Security (National Council of the Slovak Republic, 2022a) was adopted. The law granted the National Security Office the right to block harmful online content or activities in cyberspace on its own initiative or at the request of an authorised entity. As a result, four questionable web portals were temporarily blocked. However, some of them started publishing again after several months. This particular case highlights the importance of an impartial assessment of the evidence relating to disinformation and harmful web content in order to preserve the principle of viewpoint neutrality. In such assessments, it is necessary to consider whether the content may threaten the constitutional order, the security of the state or the fundamental rights and freedoms of the citizens of the Slovak Republic. According to The European Court of Human Rights (2020), the complete blocking of a website is an extreme measure and may be comparable to banning a newspaper or a television station. Such a measure does not consider the distinction between legal and illegal content on a website, making all published information inaccessible.

The entire case was perceived negatively because initially, the National Security Office did not disclose the reasons why it had blocked these websites, presenting the measure as a matter of national security. Even though the media in question are considered a conspiracy, this lack of communication made the process non-transparent in the eyes of the professional and general public. An amendment which would make the whole legal procedure more efficient and transparent is needed urgently. To date, only partial clarifications have been approved. Such decisions have to be ordered by the court. However, content providers cannot express their arguments during court proceedings and the court's decision is final, followed by no appeals (Struhárik, 2022).

## 4. Conclusion: Legal Regulation of Slovak Media Confronted With the Basic Preconditions of Deliberative Communication

Regarding the principle of reasoning-based argumentation in relation to Slovak media regulation, several notable achievements tied to truth, freedom and transparency can be identified. Freedom of expression and the right to obtain information became constitutionally guaranteed human rights and freedoms three decades ago, which is positive. In contrast, legislation addressing the protection of information sources and whistleblowers is fairly new, but it does exist. Still, a considerable number of Slovak citizens are afraid to become whistleblowers, certainly due to a legitimate lack of trust in official authorities expected to protect whistleblowers. Even though media regulation covering the protection of information sources, whistleblowers and regulation of digital content providers is already in force, which might be considered a step in the right direction, it should have existed a long time ago. This means that we do not yet possess enough information to assess whether this new legislation is effective and to what extent it is possible to avoid or undermine the current legal restrictions and obligations.

Nevertheless, the communicative principle of reasoning-based argumentation cannot be fulfilled without these measures, as it is the only way to transparently protect people who are afraid to publicly share concerning information related to public affairs. As it seems, however, specific pieces of media-related legislation tied to reasoning-based argumentation are often adopted without any prior professional consideration, even ad hoc, usually reacting to heavily covered affairs able to provoke emotional

society-wide debates (the previously-mentioned whistleblower case of Zuzana Hlávková is just one of many possible examples).

As for the issues that remain unaddressed properly, the country's representative-liberal public sphere has so far failed to increase its transparency, i.e., to include the professional and general public into the legislative processes. Citizens are not sufficiently informed about how, why, and when (media) legislation changes will take place; the general public then, quite understandably, questions the transparency, necessity, and legitimacy of such changes. Excluding the professional public also means that scholarly expertise, needed to better adapt the prepared legislation to real, everyday media practice, is notably absent. Thus, some of the principles of reasoning-based argumentation (and also those associated with the absence of power in communicative relations) are widely ignored. Legal changes such as adopting the right to statement in the new Act on Publications or the existence of the Cybersecurity Act able to protect national security in the online environment are fitting examples of the lack of transparency, even though they can generally be perceived as positive. It is certain that they will need multiple reconsiderations and amendments that would consider rapidly evolving communication technologies and digital platforms, but these must be discussed more transparently.

Moreover, Slovakia has failed to adopt the EU Directive 2019/790 of 17 April (2019) on Copyright and Related Rights in the Digital Single Market. This means that digital content providers in Slovakia are still not obliged to negotiate with media companies and financially compensate news media which have originally produced news content shared online. This weakens Slovakia's position in the European media market and indicates the country's lack of interest in media transparency, the sometimes vague, shallow attitude to European media legislation and surprising indifference towards obligations arising from international relations.

As stated by Harro-Loit et al. (in press), the principle of absence of power in communicative relations is related to multiple values, including autonomy, trust, and accountability. Slovak media legislation's compliance with this principle seems to be rather limited. Even though the public broadcasting service Radio and Television of Slovakia is nowadays one of the most trusted media organisations in Slovakia, this does not mean that the institution's former inability to offer impartial domestic news is over (Chlebcová Hečková & Smith, 2023).

Another problem is that the Slovak Syndicate of Journalists, which should be perceived as a respected organisation able to truly connect media professionals and content providers, does not possess a good reputation either in relation to the general public or within the journalistic community itself, even though, paradoxically, many news media outlets and publishing houses claim to respect *The Code of Ethics for Journalists* created by the Syndicate. In any case, established and relevant Slovak media (this does not include conspiracy media) follow their own ethical codes or codes formulated by other organisations, even though the extent to which they work with their own self-regulatory mechanisms is questionable and hard to assess. The problem which seems to be impossible to solve is that any self-regulation standards related to ethics are non-binding and voluntary; thus, their full adoption requires a high level of integrity and a media organisation's willingness to represent a clearly defined set of values. It does not help that the field of ethical (self)regulation remains overlooked and marginalised even by Slovak academic circles. However, multiple ethical codes are able to react to the development of the online environment and specific area of media entrepreneurship such as digital marketing, which can be perceived as a positive factor.



Discussing equality in communicative freedom, especially media impartiality and diversity in Slovakia, political interference must be mentioned. Cases of politicians using their own media outlets for marketing purposes are not rare and occur at national, regional, and local levels. Therefore, the current media legislation may do its best to address the long-term problems of unclear media ownership ties and non-transparent media financing (i.e., some aspects of the principle of reasoning-based argumentation associated with transparency), but it still does not solve conflicts of interest associated with merging media entrepreneurship and one's political ambitions. Another risk is posed by media market concentration reflected in audience and market shares, which endangers media diversity and heterogeneity at the levels of both offered content and ownership. In Slovakia, concentration of multiple media segments (the press, audio-visual production, and radio communication) remains substantial.

Chambers (2023) poses a question of whether digital media are the primary cause of the fragmentation and privatisation of the public sphere, therefore threatening deliberative democracy, or whether authoritarian political elites who themselves abuse the power of digital communication platforms (and largely focus on online privacy and content moderation, but not so much on legal regulation of fragmentation and privatisation, because this task is much harder to fulfil) are responsible instead. In Slovakia, the latter seems to be true; the notable lack of accountability accompanying state officials' apparent reluctance to discuss or even admit the true extent of their own ownership ties within the media industry is a fitting example. This results in politicians being too involved in enforcing authoritarian media policies and avoiding wider public debates.

The range of problems associated with the principle of mutual respect in communicative interactions (specifically represented by preserving human dignity and promoting non-violence) often collides with some of the issues included in the previous discussion on reasoning-based arguments in communication. The first fact worth mentioning is that some fairly recent legislative measures (such as the Cybersecurity Act) might have been publicly presented as an answer to otherwise unsolvable issues concerning hybrid threats and national security, but those who initiated them failed to persuade the general public that such restrictions are useful or even necessary due to the nation's notable lack of trust in public authorities and the media.

Applying legislative measures able to eliminate or at least restrain disinformation seems to be the biggest challenge, however. In this particular case, we cannot talk about a lack of academic and professional knowledge on disinformation. Gálik et al. (2023) identify 50 Slovak information sources addressing disinformation published between 2000 and 2020, i.e., even prior to the pandemic, which has worsened the situation considerably. For example, Krajčovič (2022) underlines the fact that in Slovakia, the Covid-19 pandemic has changed the market positions of most elite, tabloid, and conspiracy media outlets available on Facebook (and other social media as well); unfortunately, in favour of spreading disinformation. The current state largely favours conspirators and so far, any legislative measures meant to solve this issue have been inefficient. Slovak citizens being susceptible to disinformation and deliberate manipulation is a considerable risk to deliberative communication, as these communication strategies ignore the principles of human dignity and often resort to socially pathological phenomena such as inciting hate speech or even physical violence towards migrants, humiliating minorities or people of a different race, religion, or ethnicity.

Future solutions to many of the above-mentioned legal and ethical challenges rely on the results of the parliamentary election scheduled for September 2023. The current government crisis might lead to the prevalence of right-wing conservatives. These political subjects may initiate unwelcome legislative changes



related to the media environment to pose restrictions on the freedom of expression and therefore to retaliate for harsh media criticism of practically the same political elites following the murder of the investigative journalist Ján Kuciak and his fiancée in February 2018.

The previous data suggests that some problems are addressed by scholars quite extensively (e.g., journalistic ethics, codes of ethics, media accountability, disinformation, and freedom of expression). However, little to no attention has been paid to more complex issues influencing how the general public perceives the media environment and its functioning (such as defamation, hate speech, copyright protection, media ownership and its transparency, access to information/documents, protection of information sources or, more specifically, protection of whistleblowers). Any focused discussions on ombudspersons and other instruments of media co-regulation and self-regulation are practically missing, which only deepens the problem of insufficient distinction between different tools and strategies of media regulation and self-regulation.

This apparent lack of focus is further complicated by the fact that multiple academic and non-academic information sources published by Slovak authors address a wider spectrum of different topics, but only generally (Gálik et al., 2023). Given that, focused debates that would offer deeper explanations and understandings of specific problems are quite rare. The obvious dominance of theoretical publications has its undeniable advantages; however, practical frameworks which would seek solutions and suggest specific strategies are, in most cases, limited. These knowledge gaps thus pose a risk to the further development of the legal and ethical aspects of the Slovak media environment just as much as the systemic issues outlined in this article.

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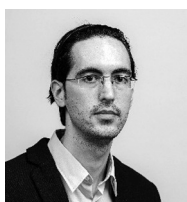
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