

# **Restrictions on Journalistic Freedom in The Regional and Local Polish Press, As Exemplified by the Lublin Region**

By Lidia Pokrzycka

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## **Abstract**

The Constitution of Poland guarantees freedom of expression, but the guarantee really protects publishers, but not journalists. An online survey of journalists in the Lublin Region of Poland shows that social pressures and concern about status in the profession constitute significant constraints on newspaper reporting as does pressure from publishers.

## **Introduction**

The Lublin Region is one of the poorest areas of the European Union. The Lublin Province is a rural region, with 53% of its inhabitants living in the country. This corresponds to about 50% of professionally active inhabitants of the region living in rural areas. On the national level, this rate reaches on average 25%, and in the European Union about 5.5%. Furthermore, there has been a consistent negative birth rate in the region, especially after 2001. Work efficiency is the lowest in Poland, too, and accounts for a 80% of gross added value per working person.<sup>1</sup> Thus, situation of journalists in the Lublin Region is far from stable, due to financial troubles of editorial teams. Problems of journalists in the region are a bit more highlighted, but they reflect the national tendencies. Due to the economic crisis, editorial teams in Poland encounter identical problems, especially owing to the fact that the majority of capital of particular media groups active on the Polish media market comes from abroad. For example, British Mecom and German Passauer Neue Presse invest in Lublin. Drastic reduction in budgets of the media in Western Europe strongly influences the deteriorating professional situation of journalists in the Central-Eastern Europe.

## Press Law

The Constitution of the Polish Republic guarantees freedom to express opinions, to acquire and to disseminate information (Article 54) and obligation to respect freedoms and rights of others, because human liberty is protected by law. Limitations upon the exercise of constitutional freedoms and rights may be imposed only by statute, and only when necessary in a democratic state for the protection of its security or public order, the natural environment, health or public morals, or the freedoms and rights of other people. Nevertheless, such limitations must not violate the essence of these freedoms and rights (Article 31). As regards the media, freedom of the press and other means of social communication is ensured by the Republic of Poland (Article 14). The Constitution also stipulates protection of other values, including constitutional ones. Thus, freedom of speech is one of the many values taking part in legal relations.

Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms is a source of important definitions of legal borders of freedom of speech, stipulating that everyone has the right to freedom of expression. This right includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers (section 1). The exercise of these freedoms carries with it duties and responsibilities, and thus it may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity, public order, health or morals, reputation and rights of others (2).

In accordance with the Press Law binding in Poland since 1984, the journalist profession is perceived as a kind of vocation. The law holds that a goal of a journalist is to serve the society and the state.<sup>3</sup>

The basic obligations of a journalist include, in particular:

1. Reliability (Article 1 of the Press Law) and honest usage of a work (Article 16 of the Copyright Law);
2. Accurate depiction of reality (Article 6, section 1 of the Press Law) arising from the obligation to maintain the utmost professional care in pursuing the truth (Article 12, section 1 of the Press Law);
3. A ban on surreptitious advertising (obligation to clearly mark advertisements - Articles 12 and 36 of the Press Law);
4. Legal obligation to act according to ethics (Article 10 of the Press Law);
5. Protection of interests of people who confide in a journalist (Article 12, Section 2 of the Press Law);
6. Protection of interests of the judiciary (Article 13 of the Press Law);
7. Requirement of authorization and quoting of sources (Article 14, Sections 1 and 2 of the Press Law);

8. Obligation to respect private life (Article 14, Section 6 of the Press Law);
9. Obligation to keep a protected or entrusted secret (Articles 15-16 of the Press Law);
10. Obligation to publish disclaimers and replies (Articles 31-33 of the Press Law.);
11. Obligation to respect Polish reason of state and Christian values (Article 18 of the Act on Radio and Television);
12. Obligation to respect copyright of people whose work the press uses (Articles 34-35 of Copyright Law)<sup>4</sup>

Needless to say, the requirement of professionalism and moral integrity of a practising journalist frequently remains only a suggestion in practice.<sup>5</sup>

Even though Poland has the largest media market in Central Europe, the Press Law does not ensure independence of journalists from media owners.<sup>6</sup>

Moreover, the Press Law – a legal act established in a totally different social and political situation – needs several changes. Not only should particular statements concerning the technological development and free market arrangements be updated, but also regulations creating legal position of the journalist profession.<sup>7</sup>

## **Lawsuits**

The local press, and especially the independent press, shows examples of people performing public functions who fail in their duties, and condemns cases of power abuse. However, this sometimes results in lawsuits.<sup>8</sup> Data of the Press Freedom Monitoring Center indicate that the number of civil and criminal cases filed against journalists in Poland is growing every year. In the years 2002-2003 in regional courts and subordinate units there were 503 civil and criminal cases against journalists and publishers – 173 lawsuits pertained to libel and 232 cases concerning broadly understood personal rights. Information collected by the Center shows that the year 2004 was no better, due to local government members who consider suing journalists to be the best weapon. Moreover, Poland has been steadily moving down the rankings concerning freedom of the press since 2002. In the most recent ranking of the international association „Reporters Without Borders, Poland occupies the 53rd position along with Mongolia and Cyprus. In the last three years the country went down by 24 positions (29th place in 2002)<sup>9</sup>

An example of a lawsuit filed against a newspaper in the Lublin Region concerns infringing personal rights of the legal adviser of the Town Office in Łęczna by the local weekly *Łęczyński Tygodnik Powiatowy*. In December 2000, in the column „Letters to us” an opinion was published concerning the legitimacy of purchasing notebooks by local authorities of Łęczna. The author of the opinion (name

reserved for the newspaper) accused the legal adviser of the Town Office of preparing many incorrect analyses, motions, decisions and lawsuits.”<sup>10</sup> The petitioner claimed that the letter contained false accusations, and journalists did not take proper care at publishing the text (they did not verify information sources). As a result, the editor-in-chief and the publisher of the newspaper had to pay 20 000 Polish zloty of compensation. The Regional Court and the Court of Appeal in Lublin ruled that a letter to a newspaper is a press material and must be verified by the editorial team.<sup>11</sup>

Another legal case between a journalist and local authorities concerned the mayor of Kraśnik, who was found guilty of denying a journalist of a local weekly access to information. The court conditionally suspended legal action against the mayor for a year, on the grounds of limited social harm of his acts. However, the court ordered him to pay 2 200 Polish zloty for the Press Freedom Monitoring Center and cover the costs of the judicial proceedings. The District Prosecutor’s Office in Kraśnik accused the mayor of refusing to give oral answers to a journalist of a local newspaper *Nowiny Kraśnickie*, accepting only written questions, failing to meet the deadlines imposed by law, and banning subordinate officials from disclosing information to the press. The scale of this process is best illustrated by the fact that the journalist had to wait for an answer to one of the questions for about a year, while other questions were not answered at all. As it was proven, journalists of other papers did not encounter such obstacles. The court decreed that „the mayor exceeded his authority by refusing to give oral information and admitting only written questions”. The mayor stated that after the lawsuit his contacts with the media are acceptable. He drew conclusions from this case and his current relations with the media are completely satisfactory.<sup>12</sup>

Nevertheless, legal proceedings before Polish courts give various results. The Press Law stipulates that civil liability for infringement of law resulting from publishing press material is assumed jointly by the author, editor-in-chief and publisher. However, in practice there are possible situations where managers of an editorial team leave a journalist alone. This kind of escape from responsibility of the publisher for members of the editorial team is encouraging or even forcing journalists to become self-employed and to cooperate with newspapers on the basis of civil law contracts. Such agreements frequently contain provisions to which journalists pay attention only when they lose a case. It also happens that a publisher pays the entire sum of compensation but later tries to recover a part of it from the journalist.”<sup>13</sup>

## **Journalists’ Association**

There are several journalists’ associations in Poland. Polish Journalists’ Association (*Stowarzyszenie Dziennikarzy Polskich - SPD*) is a professional society set up in 1951, later dissolved and illegalized by communist authorities in 1982 at the introduction of martial law. SPD was re-established after 1989, and the Press Freedom Monitoring Center was created within the Association in 1996.

The Association of Journalists of the Polish Republic (*Stowarzyszenie Dziennikarzy RP - SDRP*) is a

professional organization established in 1982 as the Association of Journalists of the People's Republic of Poland to fill in the gap after the dissolution of the Polish Journalists' Association. In 1992 the Catholic Association of Journalists was started, and in 1995 the Syndicate of Polish Journalists. The Syndicate was supposed to have the rights of a trade union, and other associations should transfer a part of their property to the Syndicate. Unfortunately, they failed to do this, in fear of decreasing influence in the journalists' environment. Hence, the Syndicate did not start operating.

Associations of journalists are not entitled to actively protect conditions of journalists' work. These organizations do not have rights of trade unions and there are no laws regulating conditions of work and remuneration of journalists. The current status of journalists' associations emphasizes their social and self-help character. Due to the lack of authority of journalists' organizations, the environment of journalists does not have a strong partner in contacts with publishers who impose their own conditions.<sup>14</sup>

The free press market in Poland deprived journalists of the regular occupation guarantees. They were often employed on the basis of temporary employment contracts or so-called specific task contracts. However, in 1996 the Labor Code was introduced, which provided journalists with relative employment stability.<sup>15</sup>

Furthermore, even the definition of the journalistic profession becomes problematic. A journalist is a person who deals with editing, creating or preparing press materials, is employed by a newspaper or performs these tasks for and with the authorization of a newspaper. Thus, there are three categories of journalists. The first group are those in a journalistic employment relationship with a newspaper or a magazine, with full welfare and pay entitlements. The second group comprises those who are employed elsewhere, or are not employed permanently and work for the newspaper on the basis of a commission contract or other forms of cooperation. The third group are journalists who publish press materials, but do not have permanent relations with the newspaper.<sup>16</sup> Currently, journalists are employed either full-time or on the basis of other legal relationships (commission contracts, specific task contracts, agency contracts or other agreements on rendering services). Self-employment is also quite widespread. Nevertheless, the journalist's employment, irrespective of its form, is based on subordination to the editor.<sup>17</sup>

In a democratic country, journalists should be guaranteed that no restrictions are imposed on their work. However, in the absence of formal censorship, it seems that journalists experience its informal kinds. Moreover, they are afraid of losing jobs, so they are dependent on publishers and editors-in-chief. Thus, are they able to deal with more controversial topics? Do they become less susceptible to pressure in the course of time? Or perhaps it is young journalists who take more risks and are not prone to self-censorship. What are the basic problems connected with practicing the journalistic profession in Polish local and regional press?

## Methods

Online editions of regional papers have already become a standard form of advertising. Nevertheless, local newspapers seldom attach significance to promotional possibilities offered by the Internet or to regular updates on their websites (providing that they have ones). It appears that the Web is not appreciated enough by the majority of such papers (according to my estimate only about 30% of over 100 press titles in the Lublin region have active e-mail addresses and/or websites). Due to this, I conducted my survey by e-mail mainly among regional press journalists whose e-mail addresses were available on the websites of particular papers. In the case of smaller newspapers, questionnaires sent to e-mail addresses taken from infrequently updated websites often returned with the information that no such mailbox exists (or there was no reply from the journalist).

I conducted the survey in 2007 and 2008, by sending questionnaires to 210 reporters and journalists of the local and regional press in the Lublin region, whose e-mail addresses were available on newspapers' websites. I received responses from 109 journalists, but 9 of them sent only their general comments, without filling in the questionnaires. Completion rate thus was 47.6%.

## Results

The journalists who took part in the survey most frequently cooperate with the press on the basis of the so-called lineage (the number of lines in a piece of printed material). Fewer of them are in full-time employment, while „self-employment” and „part-time work” are even less frequent.

**Table 1:** Work Experience of the Respondents, in Percent

<i>Duration of work as a journalist</i>	<i>Up to 2 years</i> <i>N=17</i>	<i>From 3 to 5 years</i> <i>N=23</i>	<i>From 6 to 8 years</i> <i>N=20</i>	<i>From 9 to 15 years</i> <i>N= 25</i>	<i>Over 15 years</i> <i>N= 15</i>
Full-time	11.8	26	25	44	20
Part-time	5.9	8.7	10	8	-
Self-employment	5.9	8.7	20	16	13.3
Lineage	76.4	56.6	45	32	66.7

N=100

The question about problems with practicing the profession was answered in the affirmative mostly by journalists working more than 15 years (the most experienced group). In contrast, very young people, just embarking on their careers in the press, were the most optimistic about their occupation.

**Table 2:** Problems at Work vs. Work Experience, in Percent

<i>Problems with practicing the journalistic profession</i>	<i>Up to 2 years</i> N=17	<i>From 3 to 5 years</i> N=23	<i>From 6 to 8 years</i> N=20	<i>From 9 to 15 years</i> N=25	<i>Over 15 years</i> N=15
YES	58.9	78.2	70	68	80
NO	41.1	21.8	30	32	20

N=100

The work-related problems most frequently mentioned by the respondents include: low earnings („relatively low salaries in comparison to the degree of responsibility and the social role”), understaffed editorial teams, as well as the difficult, competitive market. Journalists employed by local papers also indicate the need to own a car and a mobile phone, which significantly increases the costs of living. Furthermore, it is emphasized that criticism of the authorities and officials is not easy: for instance, a deputy mayor of the town, once criticized, avoids contacts. Besides, it is far easier for local interest groups to exert pressure on journalists.

Some respondents mention also: inadequate factual knowledge of local journalists (also operational ones) and lack of vocational stability. Other problems include: interests of the owners, fear of redundancy, and growing demands at decreasing salaries.

One of the respondents stresses that the constant decline in prestige of the profession and of the press in general is increasingly visible and is reflected in the reluctance of people to give information. As the journalist writes, it is difficult to challenge human mentality, especially in rural environment. Even if people see the need to expose a certain issue, they do not want to speak about it, in fear of consequences: for instance, that a borough leader will not remit their tax liabilities. As regards representatives of local governments, they frequently prefer not to inform journalists about planned sessions of the local council, for the sake of peace and quiet.”

The journalists also point to the problems of struggling with clerical incompetence, designs of politicians and local businesspeople on freedom of speech, as well as lack of understanding of the

journalists' role (i.e. that they collect information not for themselves but for readers and they are not supplicants but partners), and insufficient publishing pluralism on the media market of the Lublin region. Furthermore, the respondents write that they face up to the competition of national press (at least they are required to do so by their bosses) and deal with a net of connections and interdependency associated with life in small local communities. And it should be remembered that the smaller a community, the more limited the journalists' possibilities and the stricter the social control over the journalistic profession. A journalist of a national paper can be wrong many times, while a journalist of a local paper, like a sapper, can make only one mistake.

A few respondents mention censorship attempts on the part of the authorities, hardly any response to appeals, polemics and even newspaper contests, as well as lack of moral courage among interviewees (which is reflected particularly in anonymous letters sent to editorial offices).

One of the respondents adds that the character of the local-range press gives rise to informal links both among journalists and institutions (as a result, these institutions can deliberately not inform a journalist about some news if she or he has criticized them before). According to another journalist, information supplied by local authorities is frequently incomplete and not always true. Officials who have provided information often demand to get the whole text for approval before publication (even if they made only a single-sentence statement), threatening that otherwise they will refuse to disclose information in the future. Such conduct of authorities is not a rarity in Poland. Literature on the subject mentions limited access to information concerning the activity of local government bodies, for instance the cases when journalists are turned out of public sittings of local councils. There is also a practice of forcing journalists to seek pre-publication approval even for literally quoted public statements of local councilors. Journalists have difficulty obtaining information and access to files. The authorities prefer to remain silent, hoping that journalists will abandon their right to information. It even occurs that some facts are intentionally hidden, e.g. about a sitting of the local council's committee.<sup>17</sup>

The problem of restricting freedom is connected with the issue of unethical conduct. Such behavior depends on many factors, as a journalist writes: „Self-censorship - I guess this is the main reason, I'm not going to put myself at risk for 20 Polish zloty. Censorship inside the editorial office - it depends on the editor-in-chief, whether she or he is a hedger or a risk-taker, whether she or he is able to cope with a possible lawsuit. Like the leader, like the army.” Another reason is the financial situation: „Sometimes the financial result of a paper becomes translated into its contents. Poor financial result - more interviews - more paid announcements from offices.” Another journalist emphasizes that „it is connected with the pursuit of topical news, sensation, cheap scandal, and in consequence money or so-called fame.”

The power of regional and local press is mostly based on effective intervention in citizens' problems. Owing to this, the press is evaluated positively by readers, but sometimes very critically by local governments and local companies. Writing about e.g. vague connections between the worlds of business and politics is even more risky. Even though the media are referred to as the fourth estate, their actual

influence on the reality is limited in such circumstances. Obviously, a journalist's critical description of some people or events may have consequences for the described, but frequently also for the author. Therefore, journalists are faced with a dilemma: to write critically about someone/something or not? If they present an issue honestly (e.g. concerning local government officials), they may lose their source of information in the future, or sometimes they even receive a reprimand for offending local authorities. Furthermore, there is an increasing dependence of journalists on employers and on so-called "connections."

Another question in the survey concerns the forms of restricting journalistic freedom. In all cases, various types of pressure are reported mainly by journalists working up to 2 years and also by those with the longest work experience.

**Table 3:** Restricting Journalistic Freedom by Self-censorship, on a Scale from 1 (very rarely) to 4 (very often), in Percent

<i>Restricting journalistic freedom</i>	<i>Up to 2 years</i> <i>N=17</i>	<i>From 3 to 5 lat</i> <i>N=23</i>	<i>From 6 to 8 years</i> <i>N=20</i>	<i>From 9 to 15 years</i> <i>N=25</i>	<i>Over 15 years</i> <i>N=15</i>
Self-censorship1 point	35.2	17.39	5	8	53.3
Self-censorship2 points	17.6	17.39	10	16	20
Self-censorship3 points	11.8	8.7	5	-	6.6
Self-censorship4 points	23.6	8.7	15	16	6.6

N=100

**Table 4:** Restricting Journalistic Freedom by Censorship Inside the Editorial Office, on a Scale from 1 (very rarely) to 4 (very often),in Percent.

<i>Restricting journalistic freedom</i>	<i>Up to 2 years</i> <i>N=17</i>	<i>From 3 to 5 years</i> <i>N=23</i>	<i>From 6 to 8 years</i> <i>N=20</i>	<i>From 9 to 15 years</i> <i>N=25</i>	<i>Over 15 years</i> <i>N=15</i>
Censorship inside the editorial office1 point	17.6	8.7	10	24	40
Censorship inside the editorial office2 points	35.2	8.7	5	8	20
Censorship inside the editorial office3 points	17.6	17.39	10	16	6.6
Censorship inside the editorial office4 points	23.6	0.23	10	-	-

N=100

**Table 5:** Restricting Journalistic Freedom by Pressure from Owners, on a Scale from 1 (very rarely) to 4 (very often), in Percent.

<i>Restricting journalistic freedom</i>	<i>Up to 2 yearsN=17</i>	<i>From 3 to 5 yearsN=23</i>	<i>From 6 to 8 yearsN=20</i>	<i>From 9 to 15 yearsN=25</i>	<i>Over 15 yearsN=15</i>
Pressure from owners 1 points	-	-	-	-	-
Pressure from owners 2 points	17.6	13	5	8	13.3
Pressure from owners 3 points	17.6	-	5	4	6.6
Pressure from owners 4 points	5.8	13	-	8	6.6

N=100

**Table 6:** Restricting Journalistic Freedom by External Pressure, on a Scale from 1 (very rarely) to 4 (very often), in Percent.

<i>Restricting journalistic freedom</i>	<i>Up to 2 yearsN=17</i>	<i>From 3 to 5 yearsN=23</i>	<i>From 6 to 8 yearsN=20</i>	<i>From 9 to 15 yearsN=25</i>	<i>Over 15 yearsN=15</i>
External pressure 1 point	35.2	13	15	16	20
External pressure 2 points	17.6	0.23	5	4	6.6
External pressure 3 points	11.8	13	-	8	6.6
External pressure 4 points	29.4	13	10	-	13.3

N=100

**Table 7:** Membership of Journalists' Associations, in Percent.

<i>Membership of journalists' associations</i>	<i>Up to 2 years</i> N=17	<i>From 3 to 5 years</i> N=23	<i>From 6 to 8 years</i> N=20	<i>From 9 to 15 years</i> N=25	<i>Over 15 years</i> N=15
YES	-	8.7	-	12	46.7
NO	100	91.3	100	88	53.3

N=100

Membership of journalists' associations is declared by the most experienced journalists (working more than 15 years), who opened local branches of the associations or enrolled them when these organizations still thrived and offered e.g. educational possibilities and co-financing of trainings or holidays. Currently, no benefits are connected with membership of journalists' associations, apart from a membership card, which is obviously not enough.

## **Conclusion**

It could seem that journalists of both national and local media should enjoy full freedom and independence. However, the institutional freedom of the press means, primarily, the independence of the owners and editors. The interests of media owners are directed mainly at generating as much profit as possible. As Lucyna Szot writes: guarantees of the press freedom should pertain not only to the owners. Then, the pressure exerted by interests groups on the press would be limited. The principle of the media structure transparency should guarantee their autonomy and independence. Even though there is no formal censorship anymore, the mechanism of selection and interpretation (the essence of censorship) still works rigorously. Informal links and pressures are in operation.<sup>18</sup> We should bear in mind that freedom of the press is associated with guarantees against intervention of the state. Only repressive censorship is possible (i.e. a complaint to the court about an infringement of binding laws), and preventive censorship is not allowed.<sup>19</sup>

It appears that in small local communities, where the market is limited, the so-called social pressure is very strong and journalists prefer not to put themselves at risk" for the sake of presenting their views or shaping the public opinion. Some of them fear that if they fall into disfavor with a particular person, they may suffer grave professional consequences, e.g. have difficulty finding a job. A journalist of regional media faces pressure from the superiors or the publisher, while a journalist of local media (published in a given district or quarter) is influenced by certain dependence on the local authorities. Thus, it is necessary to strengthen the position of the local and regional press journalists, mostly by means of highly efficient journalistic associations empowered with competence of trade unions. Unfortunately, journalistic associations have had only an unofficial character so far.

## Summary

This paper deals with the situation of local and regional press journalists in Poland, based on the e-mail survey conducted in 2007 and 2008. This is a continuation of the research from 2005, but this time journalists from the whole Lublin region were surveyed.

The principle of the media structure transparency should guarantee the media autonomy and independence. Even though there is no formal censorship anymore, the mechanism of selection and interpretation (the essence of censorship) still works rigorously. Informal links and pressures are in operation. Such phenomena pose a considerable threat to regional and local media. This is aggravated by the fierce competition on the market, where everyone wants to be the first. As a consequence, the media become instruments in politicians' hands. The papers are constantly rushing and fighting for survival, there is no distance, no time for pondering over a situation.

The local media are far more susceptible to pressure and tend to give in. They are usually weak and on a tight budget, so they are prone to pressure from e.g. potential and current advertisers, as well as from the immediate and broader environment.

*Lidia Pokrzycka is a faculty member in journalism at Marin Curie Skłodewzwska University of Lublin and the faculty of social; science in the College of Enterprise and administration at Lublin.*