

THE JOURNALISTIC OBLIGATION TO FOLLOW THE GENERAL EDITORIAL
PROGRAMME LINE ESTABLISHED IN THE STATUTES OR REGULATIONS OF
THE EDITORIAL OFFICE (ANALYSIS OF THE PRESS LAW ACT OF 26 JANUARY
1984)

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More than 28 years after the end of communism (in 2017), according to politicians, there was still a need to decommunicate the provisions of the fundamental law for freedom of the press in Poland, i. e. the press law [1]. In the scope of the decommunization provisions, among others, the following were repealed provision of article 10 § 2 and 3 which stipulates that a journalist, as part of his or her employment relationship, is obliged to implement the general programme line of the editorial office in which he or she is employed, as set out in the statutes or regulations of the editorial office in which he or she is employed. The activity of a journalist contrary to the regulations or the statutes of the editorial office constitutes a breach of the staff obligation.

The purpose of Article 10 the previous version of the § 2 and § 3 (prior to the amendment in 2017) was to protect the identity of the press title issued by the publishers (or the radio or television station they run) or, more precisely, the viewers'; perceptions of such identity that were decisive for the choice of a given medium. For some journalists, this obligation was treated as a restriction on the freedom to choose the topics of the press materials to be prepared for the general editorial line in which the journalist was employed. The possibility of dismissal where a journalist expresses his or her own views and exercises his or her right to free expression was considered a violation of Article 54 of the Constitution of the Republic of Poland of 2 April 1997 (The freedom to express opinions, to acquire and to disseminate information shall be ensured to everyone) [2]. The introduction of an obligation to follow the programme line undoubtedly restricts the journalist's freedom to a considerable extent, but it serves to ensure that the magazine is as uniform as possible and meets the problems and expectations of its recipients. When Parliamentarians amended the press law in 2017, they wondered whether the programme line should really be deleted, especially since the Labour Code is in force? The Labour Code obliges entrepreneurs, including publishers, to regulate by appropriate regulations, i. e. to establish what they will want to establish and introduce into employment contracts. In practice, we are dealing with a certain fiction. Especially since in the article 3 the programme line is left and in Article 36 we also leave the program line.

Therefore, we have such a situation that, on the one hand, we eliminate, on the other hand, we maintain the programme line in both articles. One - in the article 3 - is related to the guarantee and protection of the interests of the press by ensuring that the printing or distribution worker does not hinder the distribution of the letter, and in the article 36 the editorial office has the right to refuse to place an advertisement or announcement if it is inconsistent with the magazine's programme line [3].

Instead of these deleted paragraphs 2 and 3, Article 10, two new ones have been introduced, which strengthen - according to the title of Chapter 2 - the rights of

journalists. The first right referred to in paragraph 2 is Article 10 provides that: „A journalist has the right to refuse to carry out an order of business if he is expected to publish in breach of the principles of fairness, objectivity and professional diligence referred to in Article 12 § 1 press law". Therefore, the obligation for a journalist to act in accordance with the editorial office's programme line has now been replaced by the so-called journalist's duty: the journalist's conscience clause. The second change is that a journalist may refuse to publish a press release if changes have been made to it that distort the meaning and pronunciation of its version. Regardless of the aforementioned amendment to the press law, each author was obliged to supervise the shape of the press material until it was published. This was due to the resolution of the Supreme Court(7), which stated that the obligation of special care and integrity in journalism does not expire as soon as the press material is published (see uh. SN(7) of 18. 2. 2005, III CZP 53/04, OSNC 2005, No. 7-8, item. 114). Revised Article. 10 §3 press law only reinforced the already existing duty of the journalist to ensure the integrity of the text and respect for the rights of the author [4]. In practice, the amendment of the press law, called de-communicization, has changed little in the functioning of the journalistic profession. It has only led to the fact that a journalist may be an disloyal employee of his editorial office, not follow the orders of his superior, invoking the conscience clause. The duty of care and reliability required when creating the press material is left unchanged.

REFERENCES

1. Press Law Act of January 26, 1984, O. J. 2018, item 1914 as amended.
2. The Constitution of the Republic Of Poland of 2nd April, 1997, O.J.1997, No. 78, item 483 as amended.
3. <http://www.sejm.gov.pl/Sejm8.nsf/biuletyn.xsp?skmr=KSP-77> [16.04.2020].
4. B. Kosmus, G. Kuczyński (red.), *Prawo prasowe. Komentarz*, wyd. 3, Warszawa 2018, Legalis.