



Achieving media responsibility in multicultural societies

**Resource Pack: Information, Practices,
Standards and Recommendations**



King Baudouin
Foundation

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2006

A joint publication of the King Baudouin Foundation and of the Inter Ethnic Initiative
for Human Rights Foundation (Bulgaria)

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by Kalina Bozeva and Mark Bossanyi

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Foreword

The right to free expression of opinions and the rights to protection from discrimination and to personal honour and dignity are two groups of fundamental rights in every democratic society. Can a balance be found between these rights? How do they reflect on media sensitivity to minority issues and the effectiveness of media in promoting ethnocultural diversity in society? How can media recognise hate speech? How can they combat it? How can the law effectively control hate speech? How can effective self-regulation of media guilds be achieved to ensure adherence to professional standards in their work on minority issues? What are the fundamental principles in formulating policies to encourage ethnocultural pluralism in the media? How can media and civil society structures jointly combat hate speech and jointly promote the values of ethnocultural diversity in society?

These complex issues were examined in the course of an international expert conference entitled *Media: Responsible Intermediaries in a Multicultural Society?* With the participation of high-profile journalists, lawyers, media experts and representatives of non-governmental organisations from South-East, Central and Western Europe. The conference was held on the 26th and 27th February 2005 in Sofia, Bulgaria, and hosted by the Inter Ethnic Initiative for Human Rights Foundation in the context of the *Minority Rights in Practice in South-East Europe* programme of the King Baudouin Foundation, the Charles Stewart Mott Foundation and the Open Society Foundation.

On the basis of the materials and opinions arising from the conference, the conference host and organiser, the Inter Ethnic Initiative for Human

Rights (IEI) Foundation has elaborated a resource pack of information material and advocacy briefs entitled *Achieving Media Responsibility in Multi-cultural Societies*. The pack consists of 5 leaflets:

- The first leaflet sets out the international legal standards which guarantee both the right to free expression of opinions through the media and the right to protection from discrimination.
- The second leaflet presents a regional cross section of the issues concerned, setting out salient points of the legislation and practices to promote ethnocultural pluralism in the media in various European contexts.
- The third leaflet sets out effective and practically proven forms of interaction between media, media structures and citizen organisations to influence media policies and increase ethnocultural tolerance and pluralism in the media.
- The fourth leaflet contains recommendations addressed to media, media regulatory bodies, national and international institutions and non-governmental organisations.
- The fifth leaflet sets out principles for journalists and editors for ethical and professional coverage of ethnic issues.

The leaflets are arranged to target various groups in various configurations such as members of parliament, journalists and media managers, media regulatory bodies and trade unions, head offices of transnational media groups, citizen organisations, journalism students, etc., for the purposes of advocacy, information and education.

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International legal standards

to achieve a balance
between the right to free
expression of opinions
and the rights to protection
from discrimination
and to personal honour
and dignity



The mass media in contemporary societies provide a cultural experience, contact with social reality and give people access to events in which they cannot participate directly. However, their real role has both passive and active elements. *On the passive side*, media try to inform their audiences about the facts and the range of possible interpretations surrounding what is happening in the world, providing the necessary cultural and environmental background to help the audiences to understand and interpret events. *On the active side*, even if they do not expressly intend to do so, media take the lead in forming public opinion. They prescribe what is normal and what is not. They set out fundamental social categories and values.

The active role of the media entails complex and difficult responsibilities. Some media are reluctant to acknowledge the extent of their active role and use the requirements of their passive, reflective role as a justification for the effects of their products on society.

In post-totalitarian societies such as much of Eastern Europe, the decades in which free expression of opinions was suppressed have led to heightened sensitivity in the media profession about threats to free speech, with some journalists unwilling to acknowledge that some restrictions must apply.

On the one hand, regulation exists to prevent harmful, inciting, illegal or otherwise undesirable content being disseminated through the media. On the other hand, such a regulatory system must protect and promote the rights to freedom of expression and information.

Any system for regulating the content of what may be printed or broadcast in the media must balance the two sets of competing interests of freedom of speech and protection of personal dignity and from discrimination.

Achieving the appropriate balance between these interests is a delicate and complicated matter both in international and domestic law.

Furthermore, universal equality of access to the media, which is an ideal of equality, free market media and free speech, is unfortunately not reflected in the reality of the media landscape, where experience and interests of minorities are often marginalised and exposed to hate speech.

In this context, international standards play a key role in shaping diversity in the media as well as media diversity and access of minorities to the media. They provide a set of basic principles and measures addressed in national policies, covering issues such as the following:

- the reservation of frequencies and time slots in the public media, including for minorities;
- tax policies designed to increase minority ownership in the media;
- employment policies to stimulate active recruitment, retention and advancement of minorities;
- strict limits on hate speech.

The over-riding importance of freedom of expression – including the right to information – as a human right has been widely recognised, and is also an essential underpinning of democracy and means of safeguarding other human rights.

International standards relating to free expression, protection from discrimination, media diversity and minority access to media represent a very complex structure. A useful metaphor to find orientation in this structure is to picture it as a large building which is still under construction. The various floors in the building represent specific legal subjects and various functions, such as the protection of minority and linguistic rights, anti-discrimination and media law. One wing of the building represents the international institutions within which these subjects are developed and implemented, such as the United Nations, the Council of Europe, the European Union, etc. The building is a hierarchical structure to which new spaces are constantly being added.

Freedom of expression

The “*ground floor*” of this “building” represents the place where all relevant institutions meet. This is the level of fundamental, basic human rights including *freedom of opinion, expression and freedom of the media*. This is the starting point of fundamental rights, respect for which affects the exercise of most other rights. Freedom of opinion and expression are upheld by documents of all the institutions concerned as follows:

- *Article 19 of the United Nations (UN) Universal Declaration of Human Rights (1948);*
- *Article 10 of the Council of Europe (CoE) European Convention on Human Rights (1950);*
- *Article 4 of the International Convention for the Elimination of All Forms of Racial Discrimination (1965);*
- *Articles 19 and 20 of the UN International Covenant on Civil and Political Rights (1966);*
- *Article II – 71 of the European Union (EU) Treaty establishing a Constitution for Europe (2004).*

Article 10 of the European Convention on Human Rights (ECHR) rules that “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises”.

Article II – 71 of the EU Treaty establishing a Constitution for Europe in its first paragraph repeats the wording of Article 10 of the ECHR, but adds a new aspect, stipulating that “**The freedom and pluralism of the media shall be respected**”. This falls short of guaranteeing media pluralism and diversity, but represents a recognition of their importance.

Limitations to freedom of expression

Despite the importance of freedom of expression, all of the documents mentioned above acknowledge that freedom of expression is not absolute. The right of a person to express him or herself may conflict with the rights to equality and non-discrimination. As a result, international law recognises that expression which constitutes incitement to discrimination, hostility or violence through advocacy of national, racial or religious hatred should be prohibited.

However, such speech will only be sanctioned if a sufficient link is established between the expression and the harm sought to be avoided. This implies that authorities establish that the expression poses a direct, imminent and serious risk of violence or other illegal action.

Even when it is the case that illegal action is likely, it is important that the authorities employ the least intrusive means to avoid the threatened harm. Criminal sanctions will be legitimate only in the very most serious circumstances, in particular where there was an intention to cause the harm.

Article 10 of the ECHR sets out limitations to freedom of speech, including when it adversely affects the interests of national security, territorial integrity or public safety, the prevention of disorder or crime and the protection of the reputation or rights of others.

“Of particular significance to the theme is Article 14, which rules that *the enjoyment of the rights and freedoms (including freedom of speech – ed.) set forth in the Convention shall be secured without dis-*

crimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

Many of the institutions concerned continue to meet on the “*first floor*” of the international media standards “building”, which deals with protection *from discrimination*. Part of this “first floor” is set out specifically for protection from hate speech.

Hate speech is usually understood as dissemination of ideas or information based on racial superiority or hatred, incitement to racial, ethnic, national or religious discrimination, hatred or violence against any race or group of persons of another colour, religion or ethnic or national origin. Many international documents guarantee protection from hate speech, including the following in chronological order:

- *Article 3 of the UN Convention on the Prevention and Punishment of the Crime of Genocide (1951);*
- *Article 20 of the UN International Covenant on Civil and Political Rights (1966);*
- *Article 4 of the UN International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1969);*
- *Article 7 of the CoE European Convention on Transfrontier Television (1989, amended 1998);*
- *Article 22a of the EU Television Without Frontiers (TWF) Directive (1989, amended 1997).*

The last two of the above list are *media-specific* acts. As an example, Article 22a of the TWF Directive rules that “*Member States shall ensure that broadcasts do not contain any incitement to hatred on grounds of race, sex, religion or nationality*”. This does not mean

that any act of hatred or violence on racial or ethnic grounds should not be reported by the media. It does, however, mean that media may not use incitement to hatred. This is a very important distinction and helps to ensure that no prominent place is given to hatred in programme services.

Protection from discrimination

The “first floor” in the international media standards “building”

Protection from discrimination, the broader concept which includes protection from hate speech, comprises most of the “**first floor**” of the international media standards “building”. This right is guaranteed by a number of international legal documents, which appeared chronologically as follows:

- *Article 7 of the UN Universal Declaration of Human Rights (1948);*
- *Article 14 of the European Convention on Human Rights (1950);*
- *Article 26 of the UN International Covenant on Civil and Political Rights (1966);*
- *The UN Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1969);*
- *The EU Race Directive (2000);*
- *Article II – 81 of the EU Treaty establishing a Constitution for Europe (2004).*

Of these, the CERD and the EU race directive are totally devoted to protection from discrimination.

The **EU Race Directive** prohibits direct or indirect discrimination based on racial or ethnic origin. This is the first international legal document which

brings in a **distinction between direct and indirect discrimination**. It defines indirect discrimination as when “*an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons*”. This directive generally refers to access to employment, all types of vocational guidance, working conditions, social protection, social advantages, education and access to supply of goods and services. It does not specifically mention media. In an earlier draft of the directive, Article 4 was to stipulate that “*Member states shall take the necessary measures to ensure that educators and persons working in the mass media are aware that they bear responsibility to an educational role in combating racial and religious discrimination*”. This text was, however, rejected in the face of arguments based on freedom of speech. Media do, however, come under the scope of the Directive to the extent that they are considered as ‘employment institutions’ or ‘institutions providing public service’.

Protection of national minorities

The “second floor” in the international media standards “building”

The “**second floor**” of the international media standards “building” could be referred to as a “European wing” of the “building”. This floor accommodates the protection of national minorities, in which the most active institution is the Council of Europe, which adopted the most important related document, the Framework Convention for the Protection of National Minorities (FCNM - 1995).

Access of minorities to the media is an important indicator of media diversity, and is therefore an important part of the FCNM.

The absence or marginalisation of minorities endangers media pluralism and the quality of exchange of opinions and information in public.

Media related issues are dealt with in **Article 9** of the **Framework Convention for the Protection of National Minorities (FCNM)**. **Paragraph 1** stipulates that “*The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the legal framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.*”

Paragraph 3, Article 9 of the FCNM rules that “*The Parties shall not hinder the creation and use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media*”. The reason why this paragraph places an obligation on states to provide opportunities to minority members to create and use electronic media, while merely not hindering their creation and use of print media, is that analogue broadcasting frequencies are scarce resources and the interests of minorities should therefore be specifically catered for.

Paragraph 4, Article 9 of the FCNM specifies that “*In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism*”. Special measures under this paragraph could include for example funding for minority media and encouraging the participation of minority members in media staff at all levels.

Article 7 of the FCNM deals partly with the media, to the extent that the parties are required to ensure respect for the right of every person belonging to a national minority to fundamental freedoms, including freedom of expression.

Article 6 of the FCNM rules that “*The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons’ ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media*”. The media are thus recognised as important in encouraging intercultural dialogue and tolerance.

Protection of minority languages

A mid-level in the international media standards “building”

Although the protection of minority languages is closely related to the protection of national minorities, the Council of Europe framework makes a distinction between these two groups of rights. Minority language protection could therefore be considered as occupying a mid-level in the metaphorical international media standards “building”.

The most important document in the protection of minority languages is the Council of Europe's *European Charter of Regional and Minority Languages (ECRML)*, which came into force in 1998. This document does not set out to protect minorities themselves, but protects minority languages spoken by minority groups within a state's population which are different from the official language or languages. This document is flexible in allowing state parties to choose from a set of proposed measures in a way which they consider appropriate to the number and sizes of minority group in their country.

Article 11 of the European Charter of Regional and Minority Languages contains media provisions which do not always reflect the size of the group, but rather they reflect its strength in political, cultural and social life. It allows states to introduce measures which help minorities in various ways. Measures proposed include:

- **Article 11, Paragraph 1 of the ECRML**, which states that *“The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:*

- *to the extent that radio and television carry out a public service mission: to ensure the creation of at least one radio station and one television channel in the regional or minority languages; or...”*

(This is the strictest option, in which to ensure the creation means to provide funding to make sure that at least one radio and one TV channel in the minority languages becomes a fact).

- *to encourage and/or facilitate the creation of at least one radio station in the regional or minority languages; or...”*

(This usually happens when the minority language broadcasting is not seen as part of a public service mission. Article 11 makes a distinction between public broadcasters which must have a public service mission, and private broadcasters which may or may not have such a mission.)

- *to encourage and/or facilitate the creation of at least one television channel in the regional or minority languages...*

- *to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages*

- *to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages*

- *to cover the additional costs of those media which use regional or minority languages, wherever the law provides for financial assistance in general for the media...*

- *to support the training of journalists and other staff for media using regional or minority languages”.*

- **Article 11, Paragraph 2 of the ECRML** stipulates that *“The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language...”*

(The clause about not opposing the retransmission of broadcasts from neighbouring countries is relevant to minorities living in regions bordering their kin state. The right to receive transnational broadcasting is also maintained by other media-specific documents).

• **Article 11, Paragraph 3 of the ECRML** states that “*The Parties undertake to ensure that the interests of the users of regional and minority languages are represented or taken into account within such bodies as may be established in accordance with responsibility for guaranteeing the freedom and pluralism of the media.*” In practice, this means that in countries with substantial minority populations, they should be represented in the national and regional media regulatory authorities.

Cultural diversity

The “third floor” in the international media standards “building”.

The The “*third floor*” of the international media standards “building” accommodates standards re-

lating to cultural diversity, and is still metaphorically speaking under construction.

International standards on cultural diversity begin with the **UNESCO Declaration on Cultural Diversity (2001)**. Cultural diversity is seen as part of the heritage of humanity, and is recognised to be as necessary for humankind as biodiversity is for the natural environment. In this sense it occupies a more general level than the protection of minority rights and is important to discussions on media in a global context. The UNESCO Declaration on Cultural Diversity lists goals such as:

- Encouraging ‘digital literacy’ (i.e. providing groups without information technology with opportunities to learn the technology);
- Promoting linguistic diversity in cyberspace;
- Encouraging the production, safeguarding and dissemination of diversified contents in the media and global information networks,
- Promoting the role of public radio and television services in the development of audiovisual productions of good quality.

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Legislation, Policies and Practices

to promote ethnocultural
pluralism and combat hate speech
in various European contexts

Domestic media legislation

Albania

Regulation of minority rights in Albania is based on the principles set out in the *Framework Convention for the Protection of National Minorities*, ratified by Albania without reservations in 1996. The *Constitution of the Republic of Albania* is the main document establishing human rights, including freedom of expression. It prohibits discrimination on the grounds of gender, race, religion, ethnic affiliation and language.

The Law on the Press guarantees press freedom. The *Law on Public and Private Radio and Television* guarantees the full access of national minorities to the electronic media as well as their editorial independence. It also guarantees broadcasting of programmes in minority languages. It also stipulates that public and private radio and television respect personal dignity, fundamental human rights, pluralism of information, children's rights, public order and, importantly, the rights of national minorities in accordance with international instruments ratified by Albania.

Albanian language is obligatory in the electronic media, but there are some programmes in minority languages, especially in Greek and Macedonian.

An *Action Plan* was signed in 2004 for implementation by Albania of the priorities of European partnership documents, which inter alia relate to minority access to media.

Bosnia-Herzegovina

The complex structure of Bosnia and Herzegovina has a considerable impact on the media environ-

ment in the country. It comprises two entities, Republika Srpska (populated mainly by Serbs) and the Federation of Bosnia and Herzegovina (populated mainly by Bosniaks and Croats), along with the Brčko District. The Federation is divided into 10 cantons. Bosnia has 17 registered minority groups.

There are 183 licensed broadcasters in BiH, plus three additional state-wide public broadcasters that form the Public Broadcasting System for BiH: The Public Broadcasting Service of BiH (PBS BiH), Radio and Television of the Federation BiH (RTV FBiH) and Radio and Television of Republika Srpska (RTRS).

Besides those 3 public TV and radio stations, there are 78 other public TV and radio stations. All are obliged under the *Law on National Minorities* to devote special time for national minorities in their programming.

Hate speech in public and private electronic media is monitored by the *Communications Regulatory Agency (CRA)*, a watchdog body which is obliged to follow up citizens' complaints and, where they are deemed valid impose financial sanctions on media, or in severe cases switch their signal off. Prior to the formation of the CRA, hate speech was widespread in the media, and soon after the body was established, it received a great number of complaints and imposed many fines, including a fine of 50000 Convertible Marks against a TV station which broadcasted an Imam's incitement to fight against atheists. In general, however, sanctions have not been imposed for several years, which reflects a certain improvement in the media situation in BiH.

CRA rules on objective and fair reporting prohibit hostile and manipulative speech. Most of the electronic media are familiar with this code and violations are infrequent. Regarding RTRS, a part of the Public Broadcasting Service of BiH, no cases of hate speech have been recorded. RTRS have successfully implemented a transformation process which began in 1998.

The printed media are regulated by the *Council for Press*. Unfortunately this Council does not have strong mechanisms to prevent hate speech. One of the reasons is the argument that TV signals are broadcast to all, whereas each individual decides for him or herself whether to buy newspapers.

Bulgaria

With Bulgaria's projected accession to the EU, Bulgarian media legislation has been for the best part synchronised with European legislation in almost all documents. *The Radio and Television Act* concerns only broadcasters, not the media as a whole. Its Article 10 lists the fundamental principles underlying radio and television activities. These coincide with the fundamental principles and requirements of the European Convention on Trans-Frontier Television has been adopted in domestic legislation.

Among the fundamental principles in *Article 10 of the Radio and Television Act*, the main concerns related to tolerance and freedom of speech are listed in *item 4*. *Item 5* covers the privacy of citizens and requires broadcasters to eliminate programmes which incite intolerance. *Item 6* specifies that programmes which offend decency, glorify violence or

inspire hatred on the basis of race, sexuality or other grounds should be eliminated.

Article 17 of the Radio and Television Act specifies the responsibility of broadcasters as regards the content of their programmes. *Paragraph 2* prohibits the broadcasting of programmes in violation of *Article 10* and programmes which inspire national, political, religious or ethnic intolerance, glorify or condone cruelty or violence or aim to destroy the mental, physical or ethical development of juveniles.

With regard to the use of language, the *Constitution* stipulates that Bulgarian is the official language, but it allows exceptions for citizens whose mother tongue is not Bulgarian. *Article 12 of the Radio and Television Act* specifies that programmes are broadcast in the official language in accordance with the Constitution. *Paragraph 2*, however, allows broadcasting of programmes in another language for the purposes of education or for citizens whose mother tongue is not Bulgarian. Under this provision, Bulgarian National Television provides news in the Turkish language and news interpretation in sign language for deaf and dumb citizens.

Article 10 of the Radio and Television Act has a provision prohibiting intolerance among citizens. Sanctions prescribed for violations of these provisions by the Electronic Media Council (the regulatory body under this law) are inconsistent and are applied selectively.

Bulgaria has approximately 180 private radio stations and 80 private cable and conventional TV operators. There is currently a process of cooperation and merging on a market principle of some radio and TV operators.

In terms of self-regulation of the Bulgarian media, a media code of ethics has recently been adopted. It contains only two texts on discrimination, which are set out in very general terms, and in practice, insensitivity and intolerance to minorities easily pass through their decorative filter into final dissemination.

Croatia

Freedom of the press and freedom thought and expression are guaranteed by the **Article 38 of the Constitution of the Republic of Croatia**, which also prohibits censorship.

Special rights and freedoms of members of national minorities, including access to media in the language and script which they use, are guaranteed by the **Constitutional Law on the Rights of National Minorities. Article 18 (1)** of the Constitutional Law obliges radio and television stations to promote understanding of minorities, to keep them informed in their own language, to preserve and develop their identity and culture and to acquaint them with the work of their national minority council and of the representative of national minorities. It obliges the press, radio and television to ensure participation of members of national minorities in the creation of programmes intended for them. **Article 18 (2)** obliges the state, regional and local government budgets to provide funding for certain radio and television programmes for minorities broadcast by channels which they own. **Article 18 (3)** guarantees the right of members of national minorities, their organisations and councils, to publish newspapers, produce and broadcast radio and television programme and perform the activity of news agencies, in compliance with the law.

Three main media-related laws relate to hate speech issues: the **Media Act**, the **Electronic Media Act** and the **Croatian Radio-Television Act**. These laws also serve to stimulate and promote pluralism and diversity in the media.

Article 5 of the **Media Act** states that the Republic of Croatia encourages and spreads pluralism and diversity of media in conformity with the law. It encourages programming which addresses the right to public information, enhances the quality of information provided for persons belonging to national minorities, informs the public on national minorities and on issues related to exercise of minority rights and encourages tolerance and the culture of dialogue.

The **Electronic Media Act** regulates establishment of a Fund for Stimulating Electronic Media Pluralism and Diversity which is of interest for national minorities in Croatia. The Fund is partly financed from the state budget and its main purpose is to stimulate local and regional electronic media programming in the public interest. Programmes of interest for Croatia include those related to exercising the right to public information for all citizens of Croatia; members of ethnic Croatian national minorities and communities abroad; and national minorities in Croatia... The Law states that radio and television programme producers should “promote understanding for persons belonging to national minorities”.

The **Croatian Radio-Television Act** states in the chapter on Programme principles and obligations that Croatian Radio and Croatian Television will, in particular, “...produce and/or broadcast shows intended to inform persons belonging to national minorities in the Republic of Croatia”.

Article 39 of the Constitution of the Republic of Croatia stipulates that “any call for or incitement to war, or resort to violence, national, racial or religious hatred, or any form of intolerance shall be prohibited and punishable by law”.

The **Penal Code Article 174, paragraph 3** prescribes a penalty of 3 months to 3 years imprisonment for anyone who publicly spreads racial, religious, sexual, national, ethnic or hatred based on the colour of the skin, sexual orientation or other characteristics. **Article 151a** prohibits the production, sale, import or export, provision to the public or possession in large quantities of materials promoting fascist, Nazi or other totalitarian states, organizations or ideologies which advocate, promote or encourage hatred, discrimination or violence against any individual or group on the basis of the race, colour of the skin, sex, sexual orientation, national or ethnic background, religion, political or any other affiliation, for which it imposes a penalty of one year in prison.

Media Act Article 3 paragraph 4 prohibits support through media broadcasts for national, racial or religious, sexual and any other inequality, for ideological or state formations created on this basis and for encouraging national, racial, religious, sexual animosity, violence and war.

Kosovo protectorate

Media in Kosovo are regulated by the **Temporary Media Commission** established by the OSCE in Kosovo, which issues licences for broadcasting and print media.

The **legal framework** in Kosovo comprises all international legal norms directly, as Kosovo does not

have its own legislation. In terms of what can be observed in the media, however, observation reveals that what was missing was the human touch, i.e. stories of what happened to particular people and how minority community members dealt individually with the crisis.

Macedonia

Macedonia is an ethnically and culturally diverse country. All citizens are guaranteed freedom of speech and access to information by law.

The **Macedonian Criminal Code** and the **Broadcasting Law** penalise hate speech, though the latter is rather vague on the matter. Public service broadcasting gives a specific place to minorities. There are media in Macedonian, Albanian, Turkish, Romani and Aromani languages.

The **Code of Journalism** is very specific, stipulating that journalists should not create or process information which jeopardises human rights and freedoms, should not use hate speech and should not encourage discrimination of any kind.

Romania

Romania has ratified the **Framework Convention for the Protection of National Minorities**, but Parliament has still not ratified the **European Charter for Regional and Minority Languages**. In Romania there is no special law on the press, because Romanian media and civil organisations opted for self-regulation.

The right to express opinions is stipulated in the **Romanian Constitution** which prohibits censorship and guarantees the right to free access to information.

This right is also enforced by *Law no. 544/2001* on free access to information of public interest, effective since 2002, which is a very important instrument in the fight against corruption and abuse.

Protection against hate speech and discrimination is provided in *Ordinance no. 137 of 2000*, which defines and sanctions direct discrimination and harassment on grounds of race, nationality, ethnic origin, religion, social category, conscience, sex, sexual orientation, belonging to a disfavoured category, age, disability, status of refugee or asylum seeker or any other grounds.

Ordinance no. 137/2000, adopted by Parliament as Law in 2002 (48/2002) sets out to eliminate all forms of discrimination by: 1) preventing any discriminatory acts/deeds by setting protection measures to benefit persons, or special measures when the persons in question do not enjoy equality of opportunity; 2) mediation and conciliation; and 3) sanctioning discriminatory behaviour.

Sanctions range from 100 RON (30 euro) to 1000 RON (300 euro) for discrimination against individuals, and between 200 RON (60 euro) to 2000 RON (600 euro) for discrimination against communities.

Under the Law, sanctions are applied by the *National Council for Combating Discrimination (CNCD)*, a body which is subordinated to the government, its president being nominated and appointed by the Prime Minister.

According to the Ordinance, victims of discrimination or harassment have the right to compensation and NGOs involved in human rights protection or

which have a legitimate interest in combating discrimination have the right to bring court actions whenever case discrimination adversely affects a community, a group, or a person.

Ordinance No. 31/2002 prohibits extremist speech, hate speech and fascist propaganda.

In the course of the EU accession process, the Romanian authorities still need to sign and ratify the *European Convention on the Legal Status of Migrant Workers and the European Convention on the Participation of Foreigners in Public Life at Local Level*, and also make a declaration under Article 14 of the *Convention for the Elimination of All forms of Racial Discrimination* by which States accept the competence of the Committee on Racial Discrimination to receive individual complaints.

The regulations enacted by Romania are in general consistent with international legally binding instruments and fulfil the minimum requirements set forth in the relevant EU Directives.

Serbia-Montenegro

As in most countries, its *Constitution* guarantees freedom of expression and prohibits discrimination. Two texts are currently under consideration for a new constitution, both encompassing human/minority rights and both having an article which promotes diversity. The *Penal Code* will also shortly be changed, the articles penalising hate speech will remain as before, but the penalties will range from 6 months to 5 years instead of 1 year to 5 years. This is significant, as it will allow offences previously considered not serious enough to merit a year's imprisonment to be penalised nevertheless.

There are about 1300 radio stations and 250-300 TV stations in Serbia. This area should be regulated soon when the Broadcasting Agency and the Telecommunications Agency start working. There are 11 national newspapers. The large number of media makes it very difficult to monitor them comprehensively, and the extent of hate speech in small local media is difficult to assess.

The *Public Information Act* places responsibility on

media for broadcasting the words of a third party, but this is very difficult to implement. This should be a matter of self-regulation by media associations. Unfortunately, it has proved difficult to unite the several media associations in Serbia to agree on a code of conduct.

The professional level of the media is still very low, and material is often based on rumour or on the words of one politician, for instance, without proper investigation of the facts.

Government measures, media policies and practices to promote ethnocultural pluralism and combat hate speech in South-East Europe

International standards establish a legal minimum and oblige governments to implement them. Although most international standards have been adopted by the states in SE Europe, their implementation is fragmentary and seriously inadequate. The intensity, quality and scope of media reporting vary between national and local levels, between printed and electronic media and between state and private media.

Access of minorities to mainstream media, minority media arrangements and minority languages in the media – an important indicator of media diversity

The countries of SE Europe have a common problem in that the issue of minority access to public and private mainstream media is inadequately interpreted. National legislation in these countries

does not set out clear criteria for the allocation of air time for minorities in the publicly-owned electronic media. There are cases where different minority communities have unequal access to electronic media. In some cases, as in Bulgaria, minority access is almost completely absent.

As a result, media themselves fail to provide programming which covers issues of significance to minorities or acquaints the public adequately with the characteristics of their communities. Coverage of minorities in SE European media frequently presents them as an exotic item and manipulates their problems in a hostile manner. This can have serious consequences for ethnic peace. But even less adequate are arrangements regarding the other aspect of minority access to media, i.e. inclusion of minority journalists and editors in basic mainstream programming, through which they would be

in a position to comment from within, not only on the problems of their own community, but also issues of wider concern to the whole of society. This prevents the mainstream audience from accepting minorities as an integral part of society, with their own characteristics, problems and rights, and stands in the way of inter-ethnic understanding.

Examples

Albanian national television and other licensed national TV channels fail to represent the agenda of minorities in practice, as the government claims they do. For example, up to now there have been no programmes on minorities on national public TV. Some positive signals are in evidence in Southern Albania where the Greek minority is concentrated. This minority has a strong business sector which has supported Greek language media. Finance, however, continues to be a problem on a national level, and the voice of minorities is so weak in the country that large sections of the public and of the journalist community know nothing about minorities, or are very confused about their identities.

The Public Broadcasting Service in **Bosnia-Herzegovina** features national minorities every day through informative programmes. Radio and Television of Republika Srpska (RTRS) has a two-weekly 30-minute specialised programme dedicated to national minorities. A recent survey conducted by the Centre for Civic Initiatives revealed that only 19 of the 78 TV and radio stations responded, and only 3 have programmes on national minorities, including RTRS and BiH TV. A number of TV stations, including private stations, were motivated by the survey itself to start

TV programmes on national minorities in the near future.

In **Romania** there are currently no regulations on ensuring the presence of minorities in the media, either in terms of themes covered or in terms of staffing. Similarly, there is a lack of specific legislation and measures on the part of the government or journalistic guilds in **Bulgaria** to encourage minority representation in media, to set clear criteria for funding and other support in this direction. The authorised bodies during the transition period have failed to guarantee the rights of minorities to access to the media by law and in practice, both in terms of content and of staffing.

Even in the publicly-owned media in **Bulgaria**, minority issues feature very scarcely. Where they appear at all, they feature in current affairs, interpreted by ethnic Bulgarian journalists and reflecting the point of view of the majority, which is very frequently insensitive, irrelevant and manipulative. Different minorities are represented in the media to varying degrees. Some minorities are totally invisible and unheard. Nobody talks about them and they have no opportunity to talk about themselves. Some of these communities are small (Tatars, Gagauzi, Aromanians, etc.); others are of considerable size (Bulgarian-speaking Muslims/Pomaks, etc.). There are only two minority language programmes on publicly-owned media, which provide very brief news three times a day on National Radio and once a day on National Television.

The **Croatian** media are still insufficiently sensitive in reporting on minorities and diversity in general. Reporting on minorities is still affected by politics

and protocol, even ghettoised, in most cases, into special columns and shows. Raising sensitivity on these issues in the media is a great challenge, requiring serious efforts for the education of editors and journalists in majority media. Minority representatives in Eastern Croatia stress the need for further inclusion of persons belonging to minorities in media and better quality and continuity in monitoring the topics they are interested in.

Representation of minorities in national radio and television broadcasts is disproportionately small in terms of content and time in view of the percentage of minorities in *Croatia*. The Government supports exchange of information and ideas in minority languages and on minorities through printed media financed exclusively from the state budget through the Council for Ethnic and National Minorities. The main problems affecting private and other local electronic media are lack of resources for production and broadcasting and lack of education of relevant people in minority related issues.

Representatives of some minorities criticise programme quality and insufficient involvement of persons belonging to minorities in editing and producing programmes in minority languages on relevant topics.

On the positive side, in Eastern Croatia two private radio stations broadcast their programmes in Serbian and one in Serbian and Romani. There are joint initiatives by several national minorities to obtain a common minority media space. The state provided 900.000 HRK from the 2003 budget for special broadcasts and radio and TV programmes of national minorities in minority languages.

It is common in the region that air time allocation and funding arrangements do not achieve proportionality corresponding to the relative sizes of the various majority and minority ethnocultural communities. Monitoring of media regulatory bodies' licensing decisions with respect to the approved candidates' proposals for coverage of minority and inter-ethnic issues is inadequate.

Hate speech in the media

Governments in the region have proved insufficiently responsible in promoting a culture of tolerance and rejection of racism, discrimination and xenophobia through the media. While it is not the role of governments to regulate the contents of media programmes, they are obliged to prohibit material which incites hatred.

Hate speech in SE European media spreads the message that "they" (minorities) are dangerous. During

the last decade, a number of countries for the former Yugoslavia were tempted into policies to homogenise the nation. A feature of media hate speech which is specific to the region is that it is directed at minorities who are local and have lived there for centuries. The collectivised view of "others" removes the moral obstacles to pure hatred. The resulting opinion created it that "we" are neutral and innocent victims; "they" are inferior, but aggressive. Any action taken against them is "defence" and therefore justified.

The most overt present-day hate speech is found in everyday communication between people and not so much in public statements of politicians. While overt hate speech directly inciting media audiences to hatred and violence was frequent in part of SE Europe in the early 1990s, a common problem now affecting all countries in the region is that overt hate speech in the media has given way to sophisticated, covert and insidious hate speech, which is very damaging but almost impossible to sanction.

While in the former Yugoslavia, nationalism and ethnic hatred reached extreme forms in the 1990s, throughout this period in most other societies in the region nationalism remained a latent force, easily drawn on and manipulated by new and unstable private media, hungry for their share of public audiences. Existing hostile public attitudes to minorities, especially to Romanians, feed the media, which in turn respond by disseminating overt and covert negativism, creating a negative feedback mechanism which further exacerbates public intolerance to ethnic and religious differences.

At the same time, not enough time has passed since the emergence of the media from the totalitarian period for any mainstream high-quality, responsible and analytical media to become established and act as a counterbalance to the overwhelmingly populist new media and the publicly-owned media which inherited the values of conservative nationalism inherent in the late communist period and in the transition years.

The culture of covert hate speech in *Bulgaria* encroaches both on the electronic media and on the

print media, the overwhelming majority of which are of the tabloid type, both in terms of format and in terms of behaviour. Over the last fifteen years, the largest-circulation print media in the country have been constantly drip-feeding their audiences with covert hate speech, steeped in muted negativity on minorities ranging from sullen churlishness to sarcasm and mocking irony. Such materials fall beneath the “radar screen” of hate speech monitoring and is practically impossible to control. The few reports and articles which cannot be described as negative very often are inadequate as they present minorities in terms of exotica.

The broadcast media in Bulgaria are regulated by the Electronic Media Council (EMC). Unfortunately, the work of the EMC has proved ineffective. The sanctions it has applied have been insufficient and applied selectively. As an example, a weekly programme on the publicly-owned Bulgarian National Television was presented by a journalist who routinely expressed virulently anti-Romany attitudes, which the Electronic Media Council has completely ignored. The programme is currently off the air, but for contractual reasons and not because of the hate speech it expressed on air. On the other hand, in 2003, the Electronic Media Council attempted to withdraw the licence of the Den TV channel for openly anti-Turkish rhetoric on the part of a programme presenter. In a context where numerous broadcast media disseminate similar negativism in varying degrees, this action was interpreted by Den TV and the general public as arbitrary. In addition, the case was poorly elaborated from a procedural point of view the EMC lost the case. Both the Council and the mission it exists to uphold were discredited as a result.

Another private TV channel, SKAT TV, has been indulging every day over the course of over 2 years in overtly nationalistic, Bulgarian supremacist and anti-minority rhetoric, and has turned out to be the main media platform for the extreme nationalist Ataka coalition which gained 22 seats in the July 2005 election and a national daily newspaper with the same name. The Electronic Media Council has refused to withdraw SKAT TV's licence on the grounds that if it were to do so, the TV station will probably start broadcasting again under a new name. If the police, for example, were to use such logic, it would refuse to arrest recidivists on the grounds that they would only commit crimes again in the future.

The Electronic Media Council's unwillingness to enforce the law in these cases has exacerbated the culture of impunity throughout the Bulgarian media sector with regard to reporting on ethnic issues. News readers, even on Bulgarian National Television, regularly and without good reason refer to the skin colour or ethnicity of apprehended criminals - if they are of Roma origin. During the summer of 2005 the leading printed media, including the national dailies owned by the Westdeutscher Allgemeiner Zeitung group, have published almost daily sarcastic, mocking and monolithically negative articles referring to the Roma community. There has not been a single case in Bulgaria in which domestic laws have been used to sanction discrimination or hate speech in the print media.

This emphasises the difficulty of applying sanctions and the need for thorough knowledge, well-considered use of ethical standards and effective media self-regulation.

In *Serbia and Montenegro*, as in other countries in the region, hate speech which occurs in the media is usually hidden and difficult to define, and hence penalise. It could be argued that in this sense the Constitution and the Penal Code are infringed on a daily basis, but even if so, it is impossible to take action on the majority of cases. It is also important to note "unintentional" discrimination or hate speech in the media. This happens because over last decade and a half, the whole of Serbian society was living in a very strange condition and many people were "deafened" by the "noise" of state propaganda which was founded on xenophobia and hatred against other nations. This long period has desensitised not only the public, but those working in the media to nuances which constitute political correctness.

In *Croatia*, although hate speech and intolerance are still present and tolerated in some papers and broadcasts, recent analyses suggest that media treatment of minorities has become more balanced in comparison to the hate speech, ethnic intolerance and political manipulations prevalent in the last decade of 20th century.

However, according to experts, the situation remains far from satisfactory. Many of them point out that News articles and reports on criminal activities by persons belonging to minorities are disproportionately frequent. Depersonalised reporting on minorities often leads to generalisation. Here too, hate speech in the media has become sophisticated and questions arise on how to recognise and control it.

Amendments to the Penal Code from 2000, 2003 and 2004, as well as the Media Act of 2003 make a significant contribution and provide legal measures forbidding and sanctioning encouragement to racial discrimination and violence. But good legal provisions without proper interpretation and implementation cannot guarantee their effectiveness. The Croatian authorities have often been criticised for inappropriate efforts to investigate and indict those responsible for causing ethnic hatred and/or encouraging discrimination and violence.

In *Macedonia*, the existing legal framework is of a reasonable standard and will probably be improved due to Macedonia's hopes of joining the EU. The problem, however, is how to ensure implementation of the law.

Media monitoring reveals that the majority of journalists refuse to acknowledge the existence of hate speech in the media. The issue has recently been re-opened and is proving difficult to deal with. According to experts, a big proportion of media hate speech in Macedonia comes from politicians. Recent media reporting on the last referendum about the territorial organisation of local communities in Macedonia, with a very strong inter-ethnic context, phrased the issues in term of "what Macedonians would lose" and "what Albanians would gain".

Explicit, overt hate speech is rare in Macedonia and problems arise with recognising and penalising covert hate speech. On the other hand, not all hate speech is sophisticated and covert. There are headlines in mainstream dailies like "Albanians respect neither the living nor the dead", or in an edi-

torial "Macedonians definitely entered the group of nations with all sorts of nationalism. Macedonians in war against everybody". Or a quote from an opinion column: "The other strange example is the mother child killer Gypsy representative of the thousands who are walking freely on the streets, crossroads and squares".

For the last ten years, and even before, the Macedonian public has been exposed to the continuous step-by-step creation of objects of hatred. Hate speech even appears in children's mainstream magazines distributed in schools in Macedonia. The most recent case was a children's story about Romanies being thieves and liars. Flagrant hate speech also appeared on Reality TV where ethnically hostile SMS messages were broadcast.

In the *countries of the former Yugoslavia*, hate speech was part of everyday life during the wars of the 1990s. Although the situation has significantly improved since then in Croatia Serbia-Montenegro, media organisations still need to make serious efforts to counteract this type of journalism. The problem is widespread and deeply-rooted. The hate speech commonly encountered in the Serbia-Montenegro is of a covert nature. For example, Serbian and Bosnian societies to some extent view indicted war criminals as heroes. The question arises if the media present them as such, does this constitute hate speech with respect to the victims, the national minorities ?

In *Romania* in the last two years the National Council for Combating Discrimination (CNCD) investigated 20 cases of discrimination through the media, punishing individuals and media or-

ganisations with fines for promoting hate speech against minorities; most of these cases also involved the Romany community.

One of the major problems regarding media, minorities and hate speech is the lack of affirmative stories in the majority media. This is the case irrespective of the existence of low-circulation minority media, including periodicals, TV and radio stations.

Media monopolisation

Monopolisation of the media market in South East Europe is a process which very strongly influences the dissemination of media hate speech. Branches of powerful transnational media groups, such as the Westdeutsche Allgemeiner Zeitung, Ringier and Murdoch groups, have established themselves in a number of countries in the region. They occupy the vast majority of national media markets. Bearing in mind that these information giants are in a position to introduce positive dimensions in the organisation of media and in the quality of media products, it must be emphasized that they have not taken sufficient responsibility to ensure that their local branches adhere to policies of ethnic and religious tolerance and respect for the rights of minorities. Local representatives of transnational media monopolies prefer to distance themselves from observations of intolerance on the part of their branch media, declaring that and they do not interfere in the editorial policies of their branches and that profits are their primary concern.

This behavior is untenable, because established international minority rights protection standards,

According to some NGOs and minority journalists, one of the main problems of minority media in Romania is self-censorship. This represents journalists' attempts to protect the various real or presumed interests of minority groups, and as a result they often fail to expose corruption and discrimination cases in which members of the minority community are involved.

including specialized media standards, must be taken into account by corporate media. They are obliged to establish standards related to ethical coverage of minority issues as part of their compulsory working standards. They are also obliged to provide information and education. The issue of profits may be a reason for a given media giant to establish itself in one or another country, but must not be allowed to displace the need to provide guarantees that journalists and editors working in its local branch media will promote ethnocultural pluralism in their societies.

In this context, of key importance is the need for monitoring by international organizations and institutions on the degree to which transnational corporate media compel their local branch media to guarantee ethical and tolerant coverage of minority issues on the basis of international standards and practices.

Training and re-training of journalists for ethical representation of minority issues in the media

In March 2004, riots took place in *Kosovo* which had very serious consequences for minorities, with houses burned down and minority community members evicted from their homes. The OSCE concluded that inadequate media reporting contributed to the problems and fostered insecurity among the population about what was happening. This gave rise to a debate about how well the journalists were trained and what the OSCE Temporary Media Commission has achieved to establish the responsibilities of public and private media in how they report on minority issues.

Even after the OSCE report stated that some media had misled public opinion, the only measures taken were more training for journalists. The media were not sanctioned, because of arguments that they are new, only 5 years having elapsed since the war, and pluralism has not had time to get established. This case graphically illustrates that in areas with a high level of inter-ethnic tensions, tragedies of this kind can be provoked not by hate speech itself, but by media reporting in which the facts are not properly checked, or in which some other rules of good journalism are infringed, and clearly indicates the dangers of inadequate training of journalists.

One of the problems in the post-communist societies in SEE is that since the end of the communist period, media deregulation has led to the number of media outlets expanding drastically. This resulted in a great number of poorly-funded new media in which the salaries offered were low. Journalists were recruited largely according to their proficiency in the language, which often meant school leavers or students. Although training was available, it was insufficient to

meet the demand, and the media tended not to be willing to pay the higher salaries which trained staff demanded. As a result, a large proportion of journalists even now are not properly educated and trained and there is no systematic in-service training.

Pre-service training in the universities tends to be largely theoretical, while the practical aspects focused on using studio and other equipment. There is a need for improved training in the ethics of journalism and the rules on fair reporting on issues related to minorities and cultural diversity in society. Racist material and xenophobic comments result from failure to observe these rules when reporting on minority issues, and this failure results from both the lack of training and from low pay, which drives competent and experienced journalists out of the profession, their jobs being filled by school leavers.

Limitations to training

The unfortunate fact that xenophobic journalism sells well can restrict the benefits even of the best training. This applies particularly in cases where well-trained young journalists submit quality material to their editors, who subsequently either reject it, edit it beyond recognition or place it under racist or xenophobic headlines. This is everyday practice in many media and naturally raises the issue of the need for training not just of junior journalists, but of in-service training for the whole media hierarchy. A very serious obstacle to this is the fact that the upper levels of media hierarchy tend to resist the idea that they need any training at all.

Diversity Bulgaria journalist training website

In response to the deficiency in media staff training in Bulgaria, the Diversity Bulgaria website (<http://www.diversitybulgaria.org/en/>) provides a relatively cheap and accessible training resource for journalists in Bulgaria, focusing on minority issues and international standards. This training course represents an attempt to bring journalists face-to-face with diversity issues, as well as providing professional training. All the trainee journalist needs is access to a computer and time to go through the course.

The first part of the training is a series of multiple choice questions, followed by a series of exercises which have to be carried out in the real world. They cannot be simulated, but require work with real people to deliver real products ranging from written articles to radio and TV broadcast products. These products are assessed and successful students receive a certificate from the British Council Media Training Centre.

The multiple choice questions cover views on diversity and knowledge about ethnic minorities in Bulgaria. Resource materials on the history and development of four main minorities in Bulgaria and the problems they currently face can be downloaded and read by the trainee, after which he or she answers questions about the matters covered in these documents. The next section defines and explains concepts such as racism and xenophobia, and this is followed by the international perspective. The latter provides the trainee with a considerable amount of information about the press codes in various countries, details of

their regulatory bodies and the relevant parts of various international agreements. When the trainee has read these, he can then proceed to answer the respective questions.

In this way, trainees gain knowledge not only about the minority communities themselves, but also about how minority issues are resolved in other countries. They are also made aware that not only they, but journalists everywhere are expected to adhere to the standards set out in the relevant international documents.

After completing the first part, trainees can click a link, which will put them in contact with a tutor who will take them through the exercises. The tutors are selected high-quality journalists from Bulgaria.

The exercises comprise the following:

- Building up a contact book of representatives of minority communities in the area. A list of minority organisations is not sufficient. Real contacts must be made by the trainees.
- Finding and writing a positive story about an ethnic minority group.
- A biographical feature on a member of an ethnic minority group.
- Finding racist or xenophobic story in the trainees' own media and then checking the facts. Checking stories of this particular type usually reveals that they seriously diverge from the facts. Trainees then find a way to correct the story.
- Writing an article on one of the issues concerning racism and minority rights in Bulgaria.

Mechanisms of journalistic guilds for self-regulation to control hate speech and promote cultural diversity

While legal regulation of the media is essential to set standards to ensure a balance between freedom of expression and the control of hate speech, the complexity of the issues means that it is notoriously difficult for external regulation to lead to the imposition of appropriate penalties, and almost impossible to do so in cases of covert hate speech.

In a well-developed media environment, most media regulate themselves to a greater or lesser extent in order to comply with legal standards. Those media which consider that their audience demands unbiased, analytical, balanced and reliable information have more motivation to regulate themselves than those whose strategy is to maximise sales by entertaining their readers, listeners and viewers and reinforcing their pre-conceived ideas.

Media in the post-communist countries of South East Europe are predominantly insensitive to the values of ethnocultural diversity and very often show intolerance to minorities. They do not provide adequate access for minority issues and to minority journalists and widely disseminate hate speech with impunity. Democracy in the region has not stabilised and issues related to minorities and cultural diversity are either marginalised in society or strongly politicised. Both the media and the public itself seriously lack criteria for ethical coverage of minority issues and there is an absence of public pressure on journalists and media managers to implement media policies which are tolerant to ethnocultural diversity. For these reasons, self-regulation of journalistic guilds is inadequate and ineffective. Professional codes of ethics are

usually couched in very general terms and, where they do exist, journalists lack the will and the skill to apply them. There is an absence of effective professional structures for media self-regulation.

For instance, 14 years after the beginning of the transition period, the media in Bulgaria acquired a code of ethics, but it pays almost negligible attention to issues concerning the ethical coverage of minority issues. It only contains two texts on discrimination which are couched in very general terms. But even these two very general provisions are widely ignored by most media, especially the print media. Despite the code of ethics, frequent and numerous articles continue to be published and broadcast which are intolerant, even racist, and highly manipulative. The two journalists unions behave totally passively on these issues. The regulatory Electronic Media Council fails to monitor adequately a large number of intolerant programmes which pass with impunity through its filter.

The Romanian media have a code of journalistic ethics, which stipulates that journalists should reflect the whole society and its diversity, providing access to the press to minority and individual opinions. It also states that journalists should not discriminate against any individual on the basis of race, ethnicity, religion, sex, age, sexual orientation or disabilities, and should not instigate hate or violence in reporting facts or expressing opinions.

Policy mechanisms for media diversity

“Only where things can be seen by many in a variety of aspects without changing their identity, so that those who are gathered around them know they see sameness in utter diversity, can worldly reality truly and reliably appear.”
(Hannah Arendt, *The Human Condition*)

Media diversity brings a plurality and variety of themes and voices to the public. It presents viewpoints, values and representations, in which citizens can recognize themselves. It is a broad principle which can be brought in on behalf both of neglected minorities and of consumer choice, or against monopoly and other distinctions. It emphasises acceptance and respect for differences by recognizing that no group is intrinsically superior to the other

The national governments of Central European countries use two basic strategies for media diversity: firstly, support for **external diversity**, i.e. independent and autonomous minority and community media (usually only print media); and secondly, support for **internal diversity**, i.e. minority and community access to, and representation in mainstream media and public broadcasting.

Access of minorities to public media (internal diversity)

Public broadcasters in Central and Eastern Europe offer two kinds of programming with regard to minorities:

- **programming on minority issues or multicultural programming prepared by majority journalists for a majority audience.** This kind of programming generally prevails in the region. It is used in countries with many small-sized minorities, or in countries with small minorities like Poland.
- **minority programming prepared by minority journalists for minority audiences.** The oldest example is the Hungarian language programme on Slovak National Radio, which started in 1928. This is prepared by a special broadcasting unit which employs Hungarian minority journalists. They are able to produce 45 hours of programming a week.

This service is like a radio station in itself, broadcasting all the genres which the national radio channel as a whole does, such as programmes for children and senior citizens, radio drama, news, current affairs, all kinds of music, etc.

Both of the above are funded entirely by public service institutions. Some programmes receive special subsidies from the government in addition to the public service funding. This, however, is a very rare and slightly irregular practice.

Measures to encourage minority media (external diversity)

There are two alternatives for subsidising the print press in Central European countries:

- **reflective external diversity**: the ethnic and cultural structure of a population is **proportionally** reflected in the existence of independent and autonomous minority newspapers and periodicals
- **open external diversity**: different communities are **equally** represented in the existence of minority newspapers and periodicals

Different countries use different strategies to promote external diversity. **Slovakia** uses the model of reflective external diversity. Minority communities in the country vary greatly in size, hence receiving varying amounts of subsidy. The largest minority the Hungarian community, which receives the largest proportional share of media subsidy.

In the **Czech Republic**, the three largest minority groups are treated equally on a political level, though they are of different size. They receive the same amount of money in subsidies for their media under

an open external diversity system, while the remaining minority groups are subject to a reflective, proportional diversity system, receiving grants in proportion to their size.

The situation in **Poland** is specific. The first freely elected government in Poland of Tadeusz Mazowiecki tried to use the principle of cultural pluralism, subsidising minority media on a regular basis. Each national/ethnic minority, regardless of its size and importance in cultural and political life, was to be provided at least with one newspaper or periodical. This, theoretically, is a model of open external diversity. In practice, however, it was challenged because some strong minorities were able to fund several of their own newspapers and periodicals. For example the Belarusian minority ran 6 periodicals, the German minority ran 4 with help from Germany, the Ukrainian minority maintained 7, the Jewish minority kept 4. Smaller, weaker groups like the Slovak, Lithuanian, Ruthenian, Roma, Tartar, and Armenian minorities were only able to maintain one or two periodicals. This in practice resembles a mixed model like in the Czech Republic.

Legal framework

Countries of Central Europe have some special laws to encourage media diversity. An example is the 2001 **Act on Rights of Members of National Minorities (Art. 13)** in the Czech Republic. Slovakia has no special legal provisions in this respect.

Examples of legal measures relating to public broadcasting include the **Act on Czech Television (1991)**, which defines the duty of public broadcasters as

“...to provide objective, verified, universal and well-balanced information, to freely create opinions and develop cultural identity of the Czech nation and national and ethnic minorities in the Czech Republic...”
For its part, the **Polish Broadcasting Act (1992)** stipulates that *“...programmes of public broadcasting should take into consideration needs of national minorities and ethnic groups...”*

Minority audiences

Polish Public Television conducted research on minority audiences and what they expect of and think about minority programming in general. The results of this research exploded a number of myths about minority programming. The research showed that:

- media from abroad have little significance for minority viewers. There had been arguments that the German minority in Poland, for instance, did not need its own media because they have access to programmes broadcast by media in Germany itself. In practice, however, German TV often has little relevance to the German minority in Poland.
- minority programming produced by minority journalists is perceived by minority audiences as more diverse than programmes about minorities produced for a majority, which minorities con-

sider use a homogeneous and uninteresting approach. It had previously been argued that minority programming is not as interesting as what is produced by majority journalists.

- the most important function of minority programming is not so much to help with communication using a minority language as a symbolic function to show minority cultures, their images and issues to the majority, making it known that the minorities have their own space in public life and are visible.

Minority audiences consider that ideal minority programming should achieve three goals:

- *to inform*
- *to develop and shape a minority culture*
- *to educate*

Existing controls to curtail hate speech and promote diversity

In the UK, there are a number of restrictions on the content of what may be published and broadcast. These ban a variety of types of expression, ranging from hate speech to obscenity.

General Media Regulation

Media regulation in the UK revolves primarily around codes of practice. **Private television and radio are regulated**, respectively, by the *Independent Television Commission (ITC)* and the *Radio Authority (RA)*. The UK also has the *Broadcasting Standards Commission*. **The print media is entirely self-regulating** and operates free of any specific statutory rules. The profession has established the *Press Complaints Commission* on its own initiative.

The UK system relies to a significant degree on a culture of responsibility within the media and upon mechanisms geared primarily towards assisting media professionals exercise that responsibility. The various codes of conduct generally provide guidelines for media professionals to have an idea of the responsibilities expected of them, rather than setting clear prohibitions on specific types of content.

At the same time, the codes of conduct established by the various regulatory bodies are necessarily flexible and subject to constant change in response to dynamic social circumstances. It is impossible to provide clear, firm guidance given the almost infinite range of situations with which the media are faced. Instead, the codes provide general guidelines, along with factors to be taken into account when applying these rules. While this lacks clarity, it does reflect the working reality for the media and has

the advantage of protecting the media from direct government control, which might be abused.

The Broadcasting Act 1990, expanded by the *1996 Act* prohibits the broadcasting of:

- Any programme which offends good taste or decency;
- Material which incites crime or disorder;
- Matter which is offensive to public feelings;
- News which is not impartial and accurate;
- Religious programmes which are not responsible; and
- Any illegal content, such as obscene or racially inflammatory material.

The Broadcasting Act 1990 simply lists general categories of unacceptable programme content, as noted above, and leaves detailed elaboration of these categories to the *Radio Authority* and *Independent Television Commission*. Both of these bodies receive complaints from the public relating to programme content and can also take action of their own motion. They may advise, warn or fine broadcasters and, in extreme cases, may shorten, suspend or revoke a broadcasting licence. They both undertake extensive research into public opinion and the standards expected of broadcasters and draft codes are widely circulated for comment and approval before being formally adopted or updated. Committees advise both bodies on matters relating to religion and advertising, and viewer and listener panels are regularly convened throughout the country to test public opinion.

Enforcement action is undertaken only where absolutely necessary. For example, the Med TV Kurdish satellite television station, licensed by the ITC, was formally warned in 1996 and a fined £90,000 in

January 1998 for lack of impartiality in its news broadcasts. In November 1998 it was issued with a final notice that its licence would be revoked if it failed to comply with the terms of the licence. The ITC suspended the licence in March 1999 as a result of four broadcasts which it found had included inflammatory statements encouraging acts of violence in Turkey and elsewhere. The license was finally revoked in April 1999.

National legislative framework

In addition to the codes, the broadcast media are also subject to a small number of specific content rules and all media are subject to laws of general application. One of the most widely cited laws, the *Race Relations Act 1976* Section 70(2), defines as an offence if a person

- publishes or distributes written matter which is threatening, abusive or insulting, or
- uses in any public place or at any public meeting words which are threatening, abusive or insulting, in a case where, having regard to all the circumstances, hatred is likely to be stirred up against any racial group by the matter or words in question.

The onus is no longer on Prosecution to prove that the defendant had the intent to stir up hatred. Rather, the defendant's intent is inferred from the fact that he or she used insulting speech and hatred is 'likely'. Landmark cases include:

- R. v. Knight - the defendant admitted to having published a racist pamphlet, but stated that he had abandoned any plans to distribute it. Even though the pamphlets remained boxed up in Knight's apartment, the trial judge obviously in-

ferred Knight's intent to incite to racial hatred.

- R. v. Edwards - an editor was convicted of violating the RRA 1976 for having published 'The Stormer', which contained several comic strips including "Ali the Paki". It also described the alleged "ritualistic practice of Jews in crucifying Christian boys in order to use their blood for their meals". Convinced that the pamphlet was "clearly one which incited readers to racial hatred", the trial judge sentenced Edwards to twelve months imprisonment.

Hatred is an extremely vague word to be included in legislation and suggests a very high level of emotion. Moreover, it is difficult to prove that hatred is likely to be stirred up.

Under the 1976 Race Relations Act, the *Commission for Racial Equality* was set up with the sole job of dealing with issues of discrimination and stimulating organisations, including media, to develop schemes of work and behaviour which avoid racism.

The Public Order Act 1986, section 18 refers to incitement to racial hatred, stipulating that a person who uses threatening, abusive or insulting words or behaviour, or displays any written material which is threatening, abusive or insulting, is guilty of an offence if :

- He intends thereby to stir up racial hatred, or
- Having regard to all the circumstances racial hatred is likely to be stirred up thereby.

The Public Order Act 1986, section 17 defines racial hatred as hatred against a group of people in Great Britain defined by reference to colour, race,

nationality or ethnic or national origin.

- The words used do not have to be racist in content themselves as long as they are threatening, abusive and insulting and stir up (or are likely to stir up) hatred against a racial group.
- What amounts to threatening, abusive or insulting behaviour is ultimately a question for the courts. Guidance from case law is not extensive but it does indicate that threatening, abusive and insulting are to be given their ordinary meanings.
- The question of intent to stir up racial hatred can be inferred from the evidence available i.e. the words and behaviour used, also the wider circumstances of the case.
- It is not a defence to say that you did not intend to stir up racial hatred if, having regard to all the circumstances, racial hatred is likely to be stirred up anyway.

The Public Order Act 1986, section 18 (5) states that a person who is not shown to have intended to stir up racial hatred is not guilty of an offence under this section if he did not intend his words, behaviour, or written material to be threatening, abusive or insulting, and was not aware that it might be.

The Public Order Act 1986, section 18 (6) does not apply to words or behaviour used, or written material displayed, solely for the purpose of being included in a programme included in a programme service.

Offences under the POA 1986 are primarily defined to maintain order and security. This entails a number of problems:

- Order and security laws are often very vague and can potentially be abused by governments to suppress legitimate criticism.
- Disorder or threats to security, real or imagined,

often give rise to a great deal of paranoia which repressive governments can easily abuse.

- Sanctions for breach of order and security laws may be excessive e.g. there is a great deal of difference, in terms of the impact on freedom of expression, between preventing speech which may imminently incite others to violence and subsequently applying criminal sanctions to the speaker (extreme).

The Anti-terrorism, Crime and Security Act 2001 came into force in December 2001 and introduced inciting hatred against a racial group abroad as an offence. Previously, Part III of the Public Order Act limited the incitement to racial hatred offences to racial groups “in Great Britain”. This change was designed to ensure that:

- Hatred originating in the UK but directed abroad is covered by the law,
- Hatred, which is sometimes directed at nationalities or groups abroad but which is designed to impact on British communities here is also covered by the expanded provisions.

The Anti-terrorism, Crime and Security Act (ATCSA) 2001 Part 5: Race and Religion extends the definition of racial hatred to include Religious hatred. Religious hatred is defined as “*hatred against a group of persons defined by reference to religious belief or lack of religious belief*”. This definition is designed to cover a wide range of religious beliefs but does not seek to define either what amounts to a religion or religious belief. The definition is also designed to include hatred of a group where the hatred is not directed against the religious beliefs of the group or to a lack of any belief but to the fact that the group do not share the particular religious

beliefs of the perpetrator e.g. atheists. The ATCSA 2001 has extended the provisions of the Crime and Disorder Act 1998 so that a criminal offence can now be religiously aggravated.

The Serious Organised Crime and Police Bill will make it an offence and illegal to stir up “*hatred against persons on racial or religious grounds*”. This is an expansion of the existing criminal offences of racial hatred in the POA 1986, and could be used, for example, in response to an extreme racist organisation widely distributing material setting out a range of insulting and highly inflammatory reasons for hating Islam. Such reasons have included suggesting that Muslims are a threat to British people and liable to molest women and that they should be urgently driven out of Britain.

Another example of an offence under this draft law is if extremists within a faith community make repeated threatening statements stirring up followers to look for ways to make trouble for unbelievers, saying that God would never ever allow unbelievers to be pleased with them and created them to be enemies.

The Human Rights Act 1998, Article 10 guarantees freedom of expression, subject to licensing in the case of broadcast media. At the same time, it qualifies this freedom as follows:

“The exercise of these freedoms, since it carries with it duties and responsibilities, 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 or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights

of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

In conclusion, the judiciary in England and Wales do not overtly interfere with the editorial independence and autonomy of the media by requiring them to adopt specific anti-racism policies or practices, although it should be noted that the media must adhere to mind the mentioned laws. There are no specific hate speech laws adopted in England and Wales.

Policies to promote ethnocultural pluralism in the media: fair representation, fair comment and open access to all levels in mainstream programming

In terms of bringing representatives of minorities into the mainstream media and developing specialist media for minorities themselves, the UK has had about 50 years of experience, some of which may prove useful in other context.

In this connection it should be borne in mind that the UK is a very different society to those of South-East Europe in two main respects: firstly, the UK is a very affluent society. The BBC alone has an annual turnover of about 7 billion US dollars, which is more than the entire Gross Domestic Product of Albania. Secondly, those referred to as minorities in SE Europe are usually populations which have lived in the country in question for centuries, or because national frontiers have moved, rather than the populations themselves. In the UK, minorities are usually taken to be people who have arrived in

the country in various waves: in the last 50 years from former British colonies, and in the last 15 years from Eastern Europe, Afghanistan, Somalia, etc. For practical purposes, the British response to minority issues in general dates back from the 1950s, when people immigrated from the former colonies. This wave of immigration had been in process for over 20 years before the appearance of the first significant piece of legislation which recognised that the UK is a multicultural society and needed regulation as such. This was the crucial Race Relations Act of 1976.

Minority employment in the UK media

A very important factor in the process of minority inclusion in the media has been the development of press, radio and TV stations aimed at and run by minority communities themselves. Examples include *Eastern Eye*, a weekly for Asians in Britain, which sells about 20-30 000 copies; *New Nation* and *The Voice* catering for Afro-Caribbean communities and circulate about 40-50 000 copies; the *Irish Post*, for the Irish community. *The Voice* has been in circulation for over 20 years.

These media play and still play an important role, not only as platforms for minorities to discuss issues which concern them, but also as a place to develop Black and Asian journalists, who then go on to work in the mainstream media. Now, however, the mainstream media tend to recruit directly from the minority communities.

Significantly it has become commonplace for public bodies, local councils, etc., in Britain to

make genuine efforts to recruit people from ethnic minorities in order to diversify the workforce. One of the most efficient ways to recruit personnel from minorities without resorting to quotas or “positive discrimination” is to advertise the jobs in the ethnic minority press. All of these newspapers have at least six pages of public sector jobs in their classified advertisements. This public sector advertising has been an unexpected source of revenue which has helped to secure the financial survival of these media.

Fair minority representation in the UK media

Fair representation of minorities in the media means two things: firstly, fair depiction of minorities and fair coverage of minority issues; and secondly, fair representation of minorities at all levels (including management, programming and editing) in the workforce of the media in question which corresponds to their communities’ proportion of the population as a whole. The first type of fair representation is unlikely to happen until the second has been achieved – until media organisations employ a large cross-section of the community. Very few journalists from outside a minority community have the level of sensitivity to the problems of that community which a person who was born and grew up in the community is likely to have.

Importantly, though, this does not mean that minority community journalists should only cover stories concerning their own community. Pluralism in society requires that the visions presented are enriched by the attitudes and world view of all communities.

In addition, the mere *presence of minority community members in the newsroom* and in management and production teams means that other journalists and editors will be restrained from publishing racist material. Once secured through external regulation, this presence represents a very important and effective form of media self-regulation. The involvement of minority community members in the editorial teams will firstly go a long way to ensure that the viewpoint of the minorities in question will feature in the finished product. Secondly, their physical presence helps to counteract the culture of negativism amongst ethnic majority staff which arises simply because, in the absence of minority staff, the editors are able to converse in disparaging terms about minority communities, or even just exchange racist jokes, without anyone ever answering back.

In this respect, under the *Race Relations Amendment Act*, deliberate attempts to avoid recruiting staff from any particular ethnic or religious group are a punishable offence. Many organisations take this very seriously and carry out ethnic monitoring of their workforce to ensure balance. The BBC is an important example of this.

There are also schemes to “fast-track” people from minorities into the media. One example is an access course into journalism targeted at people from Afro-Caribbean and Asian communities.

Interest in access courses has declined in recent years owing to the fact that many of the broadcast media have improved their practices in terms of recruiting minority staff. The same cannot be said to the same extent for the print media, however, in

which ethnic minority staff are still absent from many newsrooms.

The UK, like most countries in Western Europe, has a very strong journalists’ union. Western European journalists’ unions are concerned with much more than only pay and conditions (although this also needs serious consideration in South-East Europe), but they also deal with issues of journalistic standards and produce their own codes of conduct for their members on how to cover sensitive stories. The National Union of Journalists in the UK contains a *Black Members Council*, comprising people from Africa, the Caribbean, Asia and South America who have produced a guide to race reporting and a guide to reporting on Travellers. Large numbers of journalists are NUJ members and feel an obligation to abide by these codes.

Some newspapers have taken their responsibilities to their readers even more seriously and have set up Ombudsmen appointed by the editor, who deal with complaints addressed to the newspaper and are willing to criticise the newspaper and require it to retract material or make amends if the Ombudsman find that it has not behaved properly. Such Ombudsmen have been appointed in *The Guardian*, *The Independent*, *The Independent on Sunday* and *The Daily Mirror*.

Recognising and controlling hate speech

In recent years, even the poorest populations in the world have gained access to media information, especially through new technologies, notably FM radio. While this is predominantly a positive development, the risks that media can be abused by those who control them also apply to these new outlets, in the worst cases resulting in human rights violations and ethnic conflict. The fact that these new outlets often serve vulnerable populations make it all the more important to ensure adequate regulation and monitoring.

Sensitivity to the destructive power of the media was heightened by two of the most destructive conflicts in the 1990s, those in Rwanda and in the former Yugoslavia. In both cases, political elites manipulated influential media in order to forge conditions for conflicts and the resulting massacres.

In Rwanda in 1994 a FM radio station called *RTL*M and a newspaper called *Kangura* both disseminated hate speech against the Tutsi minority community. *Kangura* referred to the Tutsis as inherently evil and as a treacherous enemy. Both *RTL*M and *Kangura* called for listeners to take up arms against Tutsis and for them to be systematically eliminated.

After the ensuing conflict, two defendants from *RTL*M and one from *Kangura* were convicted in December 2004 by the International Criminal Tribunal for Rwanda of genocide, incitement to genocide and crimes against humanity.

The conflicts of the 1990s showed that incitement to fear and hatred can have disastrous results and that media which disseminate hate speech can be instrumental in encouraging genocide. This was what

prompted the Programme in Comparative Media Law and Policy (PCMLP) at Oxford University to undertake this project.

The project involved two main actors apart from the PCMLP. One was the BBC Monitoring Service, which observes 3000 sources from the world media. Part of the role of this service is to identify “actionable information”, i.e. indicators of tension and cases of incitement to hatred. BBC Monitoring examines the situation in areas considered to be tension hot spots, such as the Balkans, the Middle East, countries of the Former Soviet Union, etc. The other actor was the British Foreign and Commonwealth Office (FCO), which requested PCMLP to provide guidance to BBC Monitoring on identifying and classifying hate speech, to help to apply international law to hate speech issues and to help BBC Monitoring to structure their bulletins.

In a non-coercive way, monitoring establishes the cultural and political context in the countries targeted. It provides information about who owns and controls the media in question. It also provides an early warning system in cases of incitement to hatred, which can enable the implementation of preventative strategies and especially help vulnerable societies develop in a peaceful way.

The disadvantages of monitoring are firstly that it rarely reveals direct incitement to hatred. Exceptionally it did so in Rwanda, but means were not provided at the time to take appropriate action. Monitoring also requires skilled staff and experienced translators to identify tension indicators which call for action. It should also be borne in mind that instances of hate speech identified through monitoring

can be used by authoritarian governments to restrict or close down “inconvenient” media outlets.

One of the points of discussion in this project was the *distinction between criminal propaganda and the political propaganda* which governments usually use to mobilise their populations in times of war.

A further distinction was required between the terms *hate speech* in the form of insult or vilification on the one hand, and *incitement* on the other. In the media, incitement can be classified as hate speech, whereas not all hate speech is incitement. Incitement can be defined as encouraging people to carry out illegal acts against the targeted groups, such as taking up arms and killing them. If, on the other hand, material on the media merely insults or vilifies a group, this constitutes hate speech, but not incitement. Although in practice mere insult and vilification can merge into incitement, this project aimed to provide ways to identify circumstances requiring action (such as jamming wavelengths in extreme cases). Incitement, as an extreme of hate speech, represents just such a circumstance.

After clarifying these issues, the PCMLP project addressed the problem that BBC monitors had previously been picking out media for observation without having recourse to any particular guidelines by issuing a number of *recommendations* to help them to ascertain the significance of the hate speech they have come across.

The following are a few of the recommendations:

- Provision of more information about the *cultural and political context* in the countries being monitored;

- Provision of more information about *how hate speech is conveyed* and whether there are possibilities and platforms for *counter-speech to balance the hate speech*;

- Defining and identifying extremism/hate speech in areas, such as the Middle East, where negative stereotyping and stigmatisation in the media are so commonplace and systemic that they have become the norm;

- Identifying *how the material in question is presented*: as fact, as personal opinion, as an editorial;

- Providing information on *whether the material calls for illegal actions*, and if so, whether it only calls for verbal illegal actions or for violence?

- Providing information on whether the media concerned are *publicly or privately owned*;

- Providing information on *whether the countries involved are signatories to the various international conventions*.

After issuing these recommendations, representatives of the Foreign and Commonwealth Office and the Ministry of Defence, researchers, NGO representatives and lawyers were invited to a conference to examine proposals for media work in vulnerable societies. Issues discussed include:

- *Promoting independent media* to reduce government control, abuse and manipulation, in the hope that media expansion and diversification will help to marginalise hate-bearing media;

- *Developing the competence of journalists*, as is happening in Eastern European countries and to improve the physical resources available to journalists;
- *Promoting investigative journalism and work with ethnic minorities*, developing national and international journalistic networks to facilitate the exchange of information;
- *Work with legislators and the judiciary, familiarising them with the international legal framework* on hate speech and incitement, particularly in vulnerable societies where the rule of law can be weak;
- In extreme cases, certain instruments of international law can be brought into force for *jamming*

the frequencies of offending electronic media if all other ways to stop the broadcast of hate speech have failed. Unfortunately, in the case of Rwanda, the USA refused to support the jamming of the RTL radio frequency on the grounds that this would amount to infringing freedom of expression.

The Oxford University PCMLP project firmly established that the new role of the media today and the potential conflicts and human rights abuses to which media can contribute and have contributed stress the value of continual media monitoring around the world as a tool to prevent the overspilling of ethnic tensions into conflicts.

Media self-regulation in the UK

The UK media sector provides a wealth of examples both of effective and ineffective self-regulation. On the positive side, a long history of relative freedom from political control, has allowed the development of a strong and stable body of broadcasters and publishers (the BBC is usually referred to in this respect) which strive to work to high standards of impartiality. On the other hand, since the late 1970s some of the massively-circulated tabloid newspapers, most notoriously *The Sun*, consciously abdicated their role as providers of balanced information and opted for the so-called info-tainment market. The potentially serious consequences of this policy in terms of unethical reporting on minority issues was fortunately mitigated for a long time following the entry into force of the 1976 *Race Relations Act*. This law was a milestone in regulating

inter-community relations and was instrumental in setting standards to combat hate speech. In the last few years, however, some of the tabloids have become particularly aggressive in inflaming and profiting from public concerns about immigration and political asylum issues.

An example of how seriously race relations standards can be taken is an incident during a football match shown on prime family viewing time on the UK's largest commercial TV channel. A well-known sports commentator, unaware that his microphone was switched on, referred to a dark-skinned player on the pitch using obscene language and racist labelling. The commentator was fired – not because of his obscene language during family viewing time, but because of the racist term he used to describe

the player. The latter was also enough to get him dismissed from the sports column of *The Guardian*. It seems likely, however, that if he had been working for a paper which fails to maintain as high standards as *The Guardian*, he would have kept his job.

The UK electronic media are regulated by statutory codes of practice, contravention of which is punishable by heavy fines (one broadcaster was fined 2 million pounds). These codes were elaborated by the Independent Television Commission, the Radio Authority and the Broadcasting Standards Commission, which united in 2003 to form *Ofcom* (Office of Communications). The statutory codes prohibit the broadcasting of programmes which incite racial hatred. They require programmes to reflect fairly the contribution of all races to society, to avoid racist terminology, etc.

The BBC has similar guidelines. It is not formally under the control of Ofcom, but those not satisfied with the BBC handling of their complaints can then refer them to Ofcom.

The *Advertising Standards Authority (ASA)*, which regulates the UK advertising industry, has developed a code for advertisers which, apart from establishing the key principle that all advertising must be “legal, decent, honest and truthful”, specifies that special care should be taken by advertisers to avoid offensive messages based on race, creed, gender, sexual orientation and physical disability. An exception is made in the case of advertising by political parties, as the ASA does not claim to have the competence to decide whether advertising for a political party is legal, decent, honest and truthful.

The *Press Complaints Commission (PCC)* is a self-regulatory press body which has a code of practice containing a special anti-discrimination clause: “*The press must avoid prejudicial or pejorative reference to an individual’s race, colour, religion, sex, sexual orientation or to any physical or mental illness or disability.*”

The PCC code continues with a key principle for journalists in the UK: “*Details of an individual’s race, colour, religion, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to the story.*” For example in reporting a crime, it is unacceptable for journalists to mention the racial or ethnic origins of the suspects except in cases where the police has provided a description of a particular wanted suspect (e.g. white male, male with Asian features, black female, etc.). This principle is widely adhered to in the UK.

Cases do exist in which the PCC has played a regulatory role, and in one instance it severely criticised a newspaper which published vicious attacks on immigrants.

Despite its fine professional code of practice, however, the PCC was initiated and is run by the printed media themselves. This means that in effect, the Commission protects the interests of its members and that it is extremely difficult to carry any serious complaints through.

UK tabloid coverage of political asylum cases

Monitoring of UK tabloid paper coverage of political asylum cases carried out by a representative of the International Federation of Journalists revealed that certain newspapers consistently infringe the codes of practice in the same way. The common feature of these daily papers was a poor standard of journalism. The IFJ representative referred in particular to two tabloid dailies which a few years ago became the property of a former pornography publisher. On obtaining the newspapers, he tried to increase their profitability by cutting the workforce. The result was that the papers lost the editorial capacity needed to follow up their cases, and the quality of journalism plummeted.

Pursuing his aim of maximising profitability, the owner opted for a purely market-oriented strategy. One of the surest ways to increase sales is to exploit sensitivity to the issue of asylum seekers. The result was that the two newspapers in question were filled with articles whose quality was beneath any criticism. Checking out these stories, the IFJ representative established that the reality of the cases was disastrously at variance with the contents of the articles.

The reason why untrue or misleading material is published is often not so much because the publisher intends to deceive the readers, but that the material is taken from the regional or local press. The tabloids in question change the titles and send the articles for publication without checking them.

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Mechanisms

for interaction between media,
media regulatory bodies
and non-governmental organisations
to influence media policies

Non-governmental organisations have diverse roles to play in promoting ethnocultural diversity and counteracting hate speech in the media. Their function in monitoring and reporting on media behaviour is well-recognised. Perhaps more importantly, however, NGOs can participate actively in changing

both the legal and public environment in which media work, and the media themselves from the inside. This role involves a coherent combination of advocacy, training, encouraging positive media products, strategic litigation, public campaigning and facilitation activities to work towards the desired result.

Changing the legal and public environment

Monitoring

Media monitoring activities include analysing the content of a sample of media articles and reports with regard to their adherence to the legal and ethical standards described earlier. Various samples for analysis can focus on particular groups (e.g. Muslims, Romanians, etc.). Other factors are also analysed, such as divergences between the tone and content of the headlines and of the body of the articles themselves, presence of hate speech etc.

Database

In addition to systematic sampling, local and national organisations or networks can provide signals of covert or overt hate speech or unethical reporting encountered in their regional and local press and electronic media for inclusion in a database. It is important to react immediately after receiving such signals. The media concerned must be informed that the offending material has been noted and recorded. In addition, the broader the NGO reaction is disseminated among the media sector and the general public, the better, regardless of whether it will lead directly to lasting improve-

ments or not. Reacting in this way in a quick and timely manner needs a good level of cooperation within the NGO network.

Advocacy

Records of signals and results of content analyses as described above are a valuable resource in the elaboration of alternative reports to treaty monitoring bodies such as the Council of Europe Advisory Committee on the FCNM and others, which eventually react by putting pressure on governments to improve the relevant media related legislation and its enforcement.

Pressure from external monitoring bodies, however, must be complemented by in-country NGO activities aimed at long-term solutions, policy and legislative changes to reduce hate speech. This means involving media themselves, policy makers and representatives of regulatory bodies in dialogue through regular meetings and communication. It is usual for the NGOs to have to take the initiative in putting forward proposals, and it is important not to leave key actors in peace on these issues, but to maintain constant pressure on them.

Strategic litigation

Once appropriate standards are in place, problems are sure to continue if there is a culture of impunity in which propagators of hate speech can rest assured that they will not face prosecution. It may be useful for NGOs to take propagators of hate speech to court to set an example to others. An opportunity which should be used by NGOs is well-prepared strategic litigation, which can be referred to the provisions of the European Convention on Human Rights and Fundamental Freedoms if it proves unsuccessful in domestic courts. This strategy to condemn discrimination and to ensure a balanced attitude to minorities on the part of private and publicly-owned media or the relevant governing or regulatory bodies would be easier to implement if non-governmental organizations involve the support of appropriate domestic and international organizations.

This approach may backfire in cases with an element of ambiguity or if the judicial system is ineffective or corrupt. It should only be attempted in cases of overt and flagrant hate speech in clear contravention of the law. Unfortunately, as discussed in a previous section, most hate speech in European media is of a covert

nature and consequently almost impossible to overcome by means of sanctions.

Campaigning

The advocacy activities will not bear fruit unless efforts are made at the same time to sensitise sections of the public to hate speech in the media, so that at least a proportion of the population has a sufficient awareness of the techniques which media use to put across hate messages. This awareness will help the well-disposed politicians who are being lobbied by NGOs to promote the necessary measures their support.

Campaigns can include craftily-made radio and TV clips. Some publicly-owned electronic media will (and certainly should) be prepared to broadcast such non-commercial clips for a certain period free of charge. It is beneficial for the period in question to coincide with similar campaigns organised by like-minded large international NGOs, for instance on the occasion of particular dates in the UN human rights calendar. Broadcasting of campaign material should be backed up simultaneously with press releases, press conferences, articles, public discussions, school activities, poster campaigns, etc.

Stimulating internal changes in the media

Training

Media managers, editors, programmers, presenters and journalists should have a good working knowledge of international and domestic standards on hate speech and fair representation of minorities in the media. Unfortunately, this is usually not the case,

which is one of the reasons why codes of ethics for reporting on minority issues are often not adhered to. Training of media personnel in this respect seems to be most effective if it takes the form of national or local facilitated discussion sessions in which issues of racism, discrimination and ethnic prejudice arising from participants' everyday work are examined.

A particularly important activity of non-governmental organizations is to exert pressure on media themselves to seek and to provide in-service training. Non-governmental organisations are also in a position to advocate in the education authorities for issues of ethical coverage of minority issues in the media to take a prominent place in the university journalism courses.

Encouraging positive media products

Small grants disbursed by NGOs or international grants for NGO-media partnerships can encourage media products which cover minority and inter-eth-

nic issues to high ethical standards. During the development of such programmes and publications, it is advisable for grants to be made conditional on constant adherence to the relevant standards, and grant recipients and their staff receiving proper training on these issues.

Such grant-aided products are very effective in setting an example for other media. A number of them have been very successful, to the extent that they have been internalised and institutionalised by their parent media, who then continue to produce them unaided by the NGO grants.

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Recommendations

Legislation and governmental policies to encourage tolerance and cultural pluralism in society

Restricting hate speech in the media is a function of reducing negativism and ethnic alienation in society. This in turn is a function of national policies on minority issues and inter-ethnic relations and

the degree of adherence to human/minority rights standards. They represent a milestone in regulating inter-community relations and is instrumental in setting standards to combat hate speech.

Improving national legislation

Freedom of expression in the mainstream media on all political and social issues, as well as the right of citizens to present their own culture and traditions through the national and private (including minority) media must be guaranteed to minorities by law and by government measures.

- Domestic legislation and policies must be brought fully into line with international human rights and media standards promoting ethnocultural diversity and controlling hate speech.

- Publicly and private-owned electronic media should:

- cover in an ethical manner the ethnocultural diversity in society and the contribution of all ethnocultural communities;

- prevent the production and provision for broadcasting of programmes inciting national, political, ethnic, religious and racial intolerance;

- ensure diverse programmes which acquaint the audience with minorities in the country, their particular features and problems and which offer global interpretations of these issues. Publicly-owned electronic media should

initiate programmes for minorities in their mother tongue. The air time for minorities should be allocated on the basis of clear criteria such as the size of the minority community in proportion to the population as a whole;

- ensure the participation of minority journalists and editors in news and mainstream current affairs programmes;

- introduce their own ethical rules and standards for working on these issues and update them constantly in response to dynamically changing social circumstances;

- include in their own media policies moral sanctions on the part of their staff on journalists who disseminate hate speech and negative stereotypes, exacerbating inter-ethnic alienation and hostility.

- A special fund could be initiated by law to support pluralism and diversity in the electronic media, financed partly by the state budget and partly by international programmes.

- State legislation and policies must provide persons belonging to minorities with conditions to create

- their own media, ensuring appropriate funding schemes.
- Schemes should be provided to “fast-track” people from minorities into the media, such as access courses into journalism targeted at people from minority communities.
- Institutions such as commissions for racial equality or for protection from discrimination and Ombudsman should stimulate media to develop schemes for work and behavior which exclude racism, ethnic and religious intolerance, and should carry out ethnic monitoring of the workforce to ensure balance.

Regulation and self-regulation to control hate speech and promote cultural diversity

- Electronic media regulatory bodies should continually monitor publicly-owned media and all other operators who have secured air time for coverage of minority issues. Serious sanctions should be applied for infringements of the requirements for ethnic tolerance and cultural pluralism and for failures to adhere to licensing conditions on minority issue coverage.
- International treaty monitoring bodies should exert more categorical pressure on states to improve their domestic legislation and policies to promote ethnocultural diversity in the media and to combat hate speech.
- Journalistic guilds should introduce their own structures and mechanisms for self-regulation in media systems where they do not already exist.
- Existing media self-regulatory bodies should introduce codes of practice expressly related to minority issues which bring up cases in which journalists have infringed professional standards for working on minority issues.
- Journalists’ unions should also deal with issues of journalistic standards and produce their own codes of conduct for their members on how to cover sensitive stories on ethnic and religious issues.
- Transnational and national companies which enjoy a monopoly position in the media market in a given country should take responsibility to comply with media-related international minority protection standards and to establish clear standards in their own media for ethnocultural pluralism. They should categorically prohibit hate speech which exploits the sensitivity of minority issues. These companies should also provide the relevant in-service training for journalists and editors.
- The policies of transnational companies which enjoy monopoly positions in the media markets should be monitored on a regular basis by appropriate international organisations and institutions with respect to the extent to which they guarantee ethnocultural pluralism and adherence to minority rights in the countries in which their media are disseminated.

Training and re-training of journalists for ethical representation of minority issues in the media

- Pre-service training in universities should be improved with regard to the ethics of journalism and the rules on fair reporting on minority issues.
- In-service training on these issues should be provided on a regular basis for the whole media hierarchy, at least in public electronic media.
- Professional organisations of journalists and media themselves should sensitise journalists and media managers to minority issues, hate speech and how to recognise and control it.
- Investigative journalism on minority-related issues and journalists' links with ethnic minorities should be promoted through national and international journalistic networks.

Interaction between media, media regulatory bodies and non-governmental organisations

- **Monitoring:** Non-governmental organisations should play a more active role in monitoring media legislation, the activities of media and media regulatory bodies with respect to ethnocultural pluralism in programming and the access of minorities to media.
- **Advocacy:** Along with in-country NGO activities aimed at policy and legislative changes to reduce hate speech and to promote ethnocultural media diversity, NGOs should intensify advocacy in treaty monitoring bodies such as the Council of Europe Advisory Committee on the FCNM and others, which can put pressure on governments to improve the relevant legislation and its enforcement.
- **Training:** Non-governmental organisations should advocate in the education authorities to ensure that issues of ethical coverage of minority issues in the media take a prominent place in journalism degree courses. But NGOs also have a significant role to play in facilitating in-service training - for instance through facilitated discussions in which issues of racism, discrimination and ethnic prejudice arising from participants' everyday work are examined and knowledge of international and domestic standards on fair representation of minorities in the media is provided. Many media express an interest in printed and electronic materials which not only provide a training resource, but also interesting themes and useful contacts for work on minority issues. This interest is a good opportunity for NGO interventions.
- **Strategic litigation:** It may be very useful for NGOs to take propagators of hate speech to court to set an example to others. Well-prepared strategic cases can be referred to the European Convention on Human Rights and Fundamental Freedoms if they do not succeed in domestic courts. The support of domestic and international non-governmental organisations can be

valuable and should be sought in these cases in order to create a favourable environment for influencing public attitudes towards culturally pluralistic values and inter-ethnic tolerance.

- ***Awareness-raising campaigning:*** Non-governmental organisations should play a far more ac-

tive role through innovative campaigning in sensitising broader sections of the public to hate speech in the media and how to recognise and oppose it.



Professional principles

for ethical media coverage
of the problems of minorities
and inter-ethnic issues

Freedom of expression of opinions, including through the media, is a fundamental precondition for the functioning of the democratic society. At the same time, however, journalists have a responsibility as public mediators in a multicultural society to protect the rights and dignity of the individual.

Analysis of practices in various media environments and their effects on inter-ethnic relations indicate the need for *journalists and editors to work in accordance with the following principles:*

- To oppose categorically the fuelling of ethnic and religious prejudices, racism, xenophobia, nationalism and chauvinism through the media and to unmask their seemingly plausible manifestations;
 - To uphold equal rights and dignity for all citizens without discrimination on any basis, such as racial or ethnic affiliation, origins, religion, language, gender, national all social origins or other status;
 - To encourage public understanding that ethnocultural and religious diversity is a source of wealth, not a danger to society and to contribute to forming a public atmosphere tolerant to minorities;
 - To enhance the responsibilities of institutions to implement internationally established standards for the protection of minorities and for the elimination of discrimination;
 - To make every effort to reflect the multi-dimensional cultural, ethnic and linguistic diversity of society, both in terms of the programmes and materials produced and in the composition of journalistic and editorial staff.
- Adherence to the above values requires journalists and editors to adhere to the following professional principles for the ethical representation in the media of the problems of minorities and inter-ethnic issues:*
- To avoid under any circumstances using any means of expression which generate stereotypes of inferiority and inequality of any given population group because of its race, national or ethnic origins of its representatives, their religion or other identifying characteristics;
 - Not to draw generalised conclusions about a given community on the basis of the behaviour of an individual or of a small group of individuals.
 - To avoid mentioning the racial or ethnic origins of the suspects in covering a crime, except in cases where the police has provided a description of a particular wanted suspect;
 - Not to produce or allow material in which historical injustices perpetrated in the past by members of a given group are ascribed to the group's contemporary members;
 - Not to accept as unquestionable fact portrayals of the majority population as victims of minorities;
 - To treat information received from sources which try to assert superiority of their own ethnic group over others as unreliable;
 - To outline the irrelevance of racist and xenophobic messages to civil democratic values when commenting on activities by racist groups;

- To represent conscientiously the characteristics of the various ethnic communities, processes afoot in their community and their interrelationship with surrounding communities, so that the contents of the material reflect with maximum accuracy the social and cultural context;
- To provide the audience with broadening knowledge about the characteristics of minorities and about the overall human values which unite minorities and majorities;
- To reflect the problems and aspirations of minority groups, providing information about the various opinions held by members of the group on the issues in question;
- To verify all statistical data quoted and to interpret them conscientiously and without provoking manipulative interpretations;
- Not to apply over-dramatic headlines and illustrations to articles covering inter-ethnic incidents, tension and conflicts, or headlines which do not reflect the contents;
- In cases of inter-community tension and divisions:
 - to investigate and uncover the hidden reasons for the tension and divisions;
 - to present the main social, economic, psychological and political factors which comprise the context of the events, in this way allowing the audience to understand all the dimensions of the problem;
 - to be particularly conscientious in applying the basic journalistic principles of checking the reliability of information and eliminating unconfirmed information;
 - to present all sides in the conflict accurately, fairly and in a balanced way from various points of view; to represent the opinions of participants in a conflict as the opinions of particular individuals and not as opinions representative of the group as a whole; to avoid drawing conclusions on the basis of extreme points of view on a given conflict; to strive to outline the different ways the events are seen by the different sides in the conflict and to set out coherent arguments why one version is accepted as more convincing than the others;
 - to avoid highly emotive stories in which the subject matter is taken out of political and cultural context in a damaging way;
 - to avoid encouraging fatalism among the audience with regard to existing ethnic tensions and conflicts and to use facts to demonstrate that ethnic tension can be defused before it develops into conflict;
 - to represent ethnic and religious groups involved in inter-community tension or conflicts in other perspectives in addition to the conflict itself;
 - to stress that responsibility for tension or conflicts usually falls on all sides, not with only one side (the “other” side, not one’s own).

Inter Ethnic Initiative for Human Rights Foundation

The Inter Ethnic Initiative for Human Rights (IEI) Foundation is a non-profit, non-governmental organisation registered in Bulgaria in 1996 to promote the rights of minorities and inter-community cooperation in all spheres of public life. The IEI Foundation strives: to influence legislation and institutional policies to adhere to international human rights and minority protection standards; to increase the capacity of citizen organisations, including those of minorities, to advocate in official institutions for effective guarantees for the rights of minorities; to influence print and broadcast media to combat hate speech, to apply ethical professional standards when reporting on minorities and inter-ethnic issues and to ensure fair access of minorities to media; and to increase local, national and international cooperation and solidarity among citizens to promote the rights of minorities. The IEI Foundation currently focuses on three areas: promotion of ethnocultural pluralism in media; public participation of minorities; and rights-based educational integration of minorities.

www.inter-ethnic.org

King Baudouin Foundation

The King Baudouin Foundation is independent and pluralistic. Working from our base in Brussels, we are engaged in activities in Belgium, in Europe and internationally. In Belgium the Foundation has local, regional and federal projects. The King Baudouin Foundation was founded in 1976 to mark the 25th anniversary of King Baudouin's reign. Our activities are focused on the following issues:

Migration & multicultural society - promoting integration and a multicultural society in Belgium and Europe.

Poverty & social justice - identifying new forms of social injustice and poverty; supporting projects that build greater solidarity between the generations.

Civil society & voluntary work - encouraging social commitment; promoting democratic values among young people; supporting neighbourhood and local projects.

Health - promoting a healthy way of life, helping to build an accessible and socially acceptable healthcare system.

Philanthropy - helping to make philanthropy more efficient in Belgium and Europe.

The Balkans - protecting the rights of minorities and the victims of human trafficking; setting up a visa system for students.

Central Africa - supporting projects in the fields of AIDS prevention and offering guidance to AIDS patients.

www.kbs-frb.be

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