

# Hate speech in online media in South East Europe

# HATE SPEECH IN ONLINE MEDIA IN SOUTH EAST EUROPE

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# Introduction

While Internet, new media, and new technologies have certainly provided more opportunities for freedom of expression, for civic journalism, and for enhancement of democracy in general, this freedom also has given rise to new concerns, such as spreading of gossip, ill-based accusations, undue criticism, and in more extreme cases, to hate speech and nationalistic rhetoric. The rise of blogosphere and social media lend more opportunities for special groups and interests to be heard. In many ways, media professionals and citizens or amateurs, can both claim their space in the public debate.

Being simple and free to use, blogs, forums and social media have filled the void of a different way of disseminating information. Nowadays they are broadly used and distributed by well-known international media companies. On the other hand, blogging and forums are increasingly being seen as additional elements in promoting free speech and serving as democratic platforms. Most media websites also have their own forums and blogs. While most media outlets do respect the main ethical principles in general, the situation with forums and blogs is quite different. This area is not just an opportunity of expression and exchange of opinions, but also a potential area of gossip, defamation, and slander, which sometimes border on hate speech.

All Western Balkan countries currently have complex and vibrant media scenes. In addition, internet penetration has increased rapidly in these countries and the gravity center tends to go towards online media. As it was mentioned above, while the space for freedom of expression has expanded, so has the opportunity to spread the hate speech. Balkan countries are no exception in this respect. New media has offered an ideal platform to adopt and spread hate speech because of its decentralist, anonymous and interactive structure. Cyber-hate is the dark side of information technology. Cyber-hate knows no boundaries; its perpetrators are anonymous and fluid; its messages globally available.

This is a serious phenomena and a difficult challenge. Under what conditions does freedom of speech become freedom to hate? How to deal with hate speech without harming freedom of expression?

The topic of hate speech is not a new topic when talking of Balkan media. It evokes bitter memories. There has been significant discussion on what has been dubbed as “media war” during the bloody conflicts in former Yugoslavia. There have also been studies and analysis on hate speech in post-conflict societies.

However, what has not been analyzed is the phenomenon of hate speech in online media and the impact of this phenomenon in public life of countries of Western Balkans. Precisely this fact prompted the start of the project Hate Speech Online in seven countries of the region, initially supported by UNESCO (in the framework of the project *Hate speech in online media in South East Europe*) and afterwards from OSFA.

The study papers/reports on online hate speech, part of this publication, aim to identify the main trends, violations on situation of hate speech on online media in Western Balkan countries and Turkey. These reports combine secondary and primary research. Secondary research includes overview of legal framework, other reports on media monitoring in seven countries, and reports and studies on media situation in the respective country. The reports also provide overviews of relevant legislation in the realm of hate speech, as well as a glimpse on responsible institutions in each country. The practice of media initiatives to self-regulate hate speech in the media is also described, against the general background of self-regulation process in each country.

These reports also examine if legal and self-regulatory measures against hate speech are respected in practice. Reports combine direct content monitoring of online media and online versions of traditional media with previous research, monitoring and studies done on use of hate speech in the media in each country. Short textual analysis of several cases of hate speech in content generated both by authors and by users is indicative of major manifestations of hate speech, as well as social identities most often exposed to hate speech.

The overviews on current trends of online media in relation to hate speech are followed by the respective recommendations for each country.

This publication is only an initial attempt to a broader and deeper understanding of the online hate speech phenomenon. This publication does not claim in any way to be an academic one. This book is a result of the work of independent media experts from the seven countries involved in the project. The publication poses some serious questions and provides complex answers. It is just a first step towards a path that seems to be a long and not entirely free of dilemmas.

**Remzi Lani**

# How should the media deal with hatred online?

Andrew Smith, *Legal Officer, Article 19*

## Right to freedom of expression online

The right to freedom of expression is a fundamental human right, and the foundation stone for every free and democratic society.<sup>1</sup> The Internet has democratised freedom of expression, enhancing the enjoyment of this right immeasurably. With more than 7 billion people now connected, the opportunities for sharing information and ideas are greater than ever before, with relatively few geographic, political or economic boundaries. Repressive governments can't control what ideas people see and share as easily. The traditional media no longer have a monopoly on information flows. Anyone can now get online and publish information on a scale previously unimagined.

International standards are clear that the right to freedom of expression – protected in Article 19 of the Universal Declaration on Human Rights and elaborated in Article 19 of the International Covenant on Civil and Political Rights - applies on-line as it does off-line. This has been affirmed by the UN Human Rights Council in a landmark 2012 resolutions (A/HRC/20/13), and by the Human Rights Committee, the treaty monitoring body for the International Covenant on Civil and Political Rights (ICCPR), in General Comment No. 34.

Any restrictions on online expression must, therefore, be justified according to a three-part test that is set out in Article 19(3) of the ICCPR. It must be: (i) provided for by law, (ii) pursue a legitimate aim (the protection of the rights or reputations of others, the protection of national security, public order, public health or morals), and (iii) be necessary and proportionate.

There are a number of principles that States should consider when applying restrictions on freedom of expression online:

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<sup>1</sup> Human Rights Committee, General Comment No. 34, CCPR/C/GC/34, 21 September 2011, at para. 2.

<sup>2</sup> Human Rights Committee, General Comment No. 34, *op. cit.*, at para. 17.

- States should take into account the ways in which internet and mobile-based information dissemination systems have changed communication practices significantly;<sup>2</sup>
- Regulatory approaches in the telecommunications or broadcasting sector should not just be transferred to apply to the Internet.<sup>3</sup> Tailored approaches taking into account the unique characteristics of the internet should be used;
- Specific restrictions for material disseminated over the internet are unnecessary;<sup>4</sup>
- Generic bans on the operation of certain websites or systems are not justified, as they do not meet the test of necessity and proportionality.<sup>5</sup>
- It is incompatible with the right to freedom of expression to prohibit a site or system from publishing information on the basis that it is critical of the government or the political social system espoused by the government.<sup>6</sup>
- Self-regulation should be promoted as an effective tool for redressing harmful speech.<sup>7</sup> Otherwise, States are only *required* by international law to prohibit child pornography, direct and public incitement to commit genocide, the advocacy of hatred that constitutes incitement to discrimination, hostility or violence, and incitement to terrorism. Still, any such restriction must comply with the three-part test to safeguard against abuse by being unambiguous, in pursuit of a legitimate purpose, and respect the principles of necessity and proportionality.<sup>8</sup>
- No person should be held liable for content on the internet of which they are not the author, or be required to monitor or remove things that others are saying online.<sup>9</sup>
- Decisions to block or compel the removal of content should be undertaken by a competent judicial authority or a body which is independent of any political, commercial, or other unwarranted

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<sup>3</sup> The 2011 Joint Declaration on Freedom of Expression and the Internet, June 2011.

<sup>4</sup> *Ibid.*

<sup>5</sup> Human Rights Committee, General Comment No. 34, *op. cit.*, para. 43.

<sup>6</sup> *Ibid.*

<sup>7</sup> The 2011 Joint Declaration of the Special Mandates.

<sup>8</sup> Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 16 May 2011, A/HRC/17/27, at para. 22.

<sup>9</sup> Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 16 May 2011, *op. cit.*, at para. 43. For a more in depth analysis of liability for third party content, see: ARTICLE 19, "Internet Intermediaries: Dilemma of liability", August 2013.



influences to ensure that blocking is not used as a means of censorship;<sup>10</sup>

ARTICLE 19 has developed a number of policy documents that set out these principles in greater depth. These include: *“The Right to Blog”* (2013), *“Internet Intermediaries: Dilemma of Liability”* (2013), and *“The Right to Share”* (2013).

## International standards on “hate speech”

Although the term “hate speech” is often used, there is no universally accepted definition under international law. This adds to confusion over what the obligations are of States or other parties when faced with “hate speech”.

The Council of Europe Committee of Ministers has indicated that the term “hate speech” includes:

*“[A]ll forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility towards minorities, migrants and people of immigrant origin.”<sup>11</sup>*

This is a very broad definition, and international law does not require States to prohibit or criminalise all “hate speech” of this sort. Indeed, the right to freedom of expression protects much speech falling within this definition, even though it shocks, offends, or disturbs.

It is only in respect of a narrower set of expression that States are required to prohibit forms of expression. This is set out in Article 20(2) of the ICCPR as:

*“The advocacy of racial, religious or national hatred that constitutes incitement to hostility, discrimination or violence.”*

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<sup>10</sup> Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 16 May 2011, *ibid.*, at para. 38.

<sup>11</sup> Committee of Ministers Recommendation, 30 October 1997. See also, the European Court of Human Rights, *Gündüz v. Turkey*, No. 35071/97 (2004), paras. 22 and 43.

ARTICLE 19 has developed a six-part test for interpreting whether expression meets the threshold set by Article 20(2) of the ICCPR for introducing sanctions. The test is developed for use by judges when determining whether the expression was so severe that it may be prohibited under Article 20(2) of the ICCPR:

- The broader social context of the expression, e.g. a history of incitement between certain groups;
- The identity of the speaker, e.g. whether they are a prominent politician with influence over their audience;
- The intent of the speaker to cause the prohibited outcome, i.e. to incite hostility, discrimination or violence;
- The content of the expression, including the words that were said and how they were sent;
- The extent or magnitude, i.e. the means and extent of distribution;
- The likelihood and imminence of discrimination, hostility or violence actually occurring – rather than mere offence and displeasure being caused.

When applying this test online, there are a number of additional factors that judges should consider:

Firstly, Internet users are usually quite computer-literate, and able to distinguish between high quality and low quality content and adjust their expectations accordingly. For example, an article written by a known journalist will hold greater sway over their audience than the comments of an anonymous user beneath that article.

Secondly, most people understand and value that the Internet is an un-moderated arena for the exchange of ideas, and that this can sometimes include the expression of hateful and offensive ideas. The nature of the Internet, and the ease with which anyone can generate content, means that people communicate in ways that are much more florid, and often exaggerated or even flippant. This is an important contextual factor when determining questions of intent for “incitement” or other offences online.

Thirdly, the Internet provides an unprecedented opportunity for exercising the “right to reply”. People can contest ideas and opinions that they disagree with immediately, and engage in dialogue. This may alter the impact of the expression on the audience, and therefore influence how likely it is that such expression would lead to action.

## **Self-regulation online**

**T**he Internet has made it possible for any person to publish ideas, information and opinions to the entire world. This has turned the idea of publisher and consumer on its head – many people now act as both. In the on-line space, virtually anyone can perform the function of a “journalist”.

Because the Internet provides an unlimited platform for freedom of expression, it is often analogised to print media rather than broadcasting in terms of the regulatory model that should apply. Without a limited spectrum, there is no legitimate basis for attempting to prescribe content to serve the public interest.

Bearing this in mind, there is no reason why the self-regulatory approach taken with print media cannot be extended to content generated online. The same ‘ethical standards’ that journalists strive to abide by in print should be no different online either. Indeed, ARTICLE 19 has argued that any individual engaged in the function of journalism, such as bloggers, should be given the option to join self-regulatory bodies.

As with self-regulatory bodies responsible for off-line content, any body should be independent of political influence, publicly accountable, and operate transparently. Editorial independence and media plurality should also not be compromised. The UN Special Rapporteur on the right to freedom of opinion and expression has stated that self-regulation online is the best mechanism for countering “hate speech” (see his report to the UN General Assembly from September 2012, A/67/357).

## **Liability for third-party content**

**W**hether a website host, including any media organisation, should be liable for comments of third parties posted on their websites is another question. There isn’t consensus internationally on the approach to be taken in this area.

Media entities have absolute control over whether they enable comments or other modes of interaction on their websites, and many chose to do so to enhance user experience and the quality of content. However, just because a website allows user-generated content or engages in some level of moderation does not mean it should be considered as the publisher of the comments that it has not moderated.

ARTICLE 19’s preferred model is that website hosts (or other intermediaries) should not be liable for content they have not created or been involved in the modification of. There may be exceptions for content

where there is serious alleged criminality, such as incitement to violence, but this must still be subject to subsequent judicial approval.

Other systems of finding intermediaries liable include “notice-and-take-down” procedures. These require a host to remove content as soon as possible after notification, and liability is only incurred if they refuse to take the content down. Such systems inevitably lead to over-cautious moderation, where content may be removed without procedural safeguards in place to determine what are often complex legal questions. It may also reduce the number of websites offering comment forums.

A website host may also wish to promote certain standards from user-generated comments, and these standards may reflect to a certain extent the ethical principles journalists hold themselves to. However, it should be remembered that user comment forums act more like a conversation than traditional print media – there is an instantaneous right to reply – and therefore expression may be more florid or even flippant than what one may expect in the content of a more considered article. As such, more leeway should be granted to encourage a free exchange of ideas. Web hosts should seek to apply international standards on freedom of expression when making moderation decisions.

### **The dilemma of *Delfi***

**I**n light of the above comments, ARTICLE 19 *finds the recent decision* of the European Court of Human Rights in *Delfi vs. Estonia (no.64569/09)*, to be a serious blow to freedom of expression.

Delfi is an Estonian news portal that publishes up to 300 news articles per day. The article in question in this case concerned the controversial decision of a ferry company to change its routes, causing the early closure of ice roads that connect islands to the mainland. It attracted 185 comments, 20 of which were considered insulting or threatening to the ferry company. It was 6 weeks before the ferry company’s lawyers complained, requesting the removal of the comments and damages. Delfi took the offending comments down *immediately*, but refused to pay damages. Although initially unsuccessful, the claimant eventually secured a judgment for damages of 5,000 Kroons (approximately 320 Euros) – subsequently upheld by the Court of Appeal and Supreme Court.

In a unanimous judgment, a Chamber of the First Section of the European Court of Human Rights concluded that there had been no violation of Article 10 of the European Convention on Human Rights (ECHR). In summary, the Court made the following points in reaching this decision:

- The article on the Delfi website was balanced and in the public interest, but Delfi should have realized that it would cause negative reactions – including gratuitous insults or hate speech. Delfi should have therefore “exercised particular caution”.
- The moderation Delfi had been engaged in (both a pre-moderation filter for “vulgar words” and a simple post-moderation flagging procedure for notice-and-takedown) had been inadequate to prevent against the posting of the unlawful content, as they had been public for more than 6 weeks before the removal request was made.
- Delfi had been given the freedom to determine which system of moderation to use to avoid liability (it hadn’t been required to register users, for example), and in any case the damages award was not disproportionate for such a successful business.
- It would be disproportionate to put the onus on complainants to identify the authors of anonymous comments and pursue them. By allowing anonymous comments, Delfi had assumed some responsibility for them, and was better placed with the resources to monitor and moderate content than the injured party.

ARTICLE 19 is concerned that this judgment sets a worrying precedent for protecting freedom of expression online. Our concerns fall into three main categories.

1. The judgment **fails to understand the EU legal framework regulating intermediary liability.**
  - The judgment doesn’t seem to understand how the Internet works, and how EU law requires States to deal with intermediary liability under the E-Commerce Directive (ECD). In particular, Article 14 ECD requires States to give an incentive to website hosts like Delfi to remove content when given notice of its illegality. Hosts receive immunity from liability where they take action upon notice. Delfi complied with Article 14 by removing the comments as soon as the ferry company raised them, and should therefore have been given immunity.
  - The finding that Delfi should have been doing more to actively monitor and remove comments goes against Article 15 of the ECD, which prohibits Member States imposing monitoring obligations on information society services.
2. The judgment also **ignores relevant international standards on freedom of expression online.**
  - The UN Special Rapporteur on Freedom of Expression in his thematic report on the Internet (*A/HRC/17/27*) recommended that

“censorship measures should never be delegated to private entities, and that no one should be held liable for content on the Internet of which they are not the author.” The UN Special Rapporteur was very critical of notice-and-takedown procedures, notably the fact that material is removed without a judicial determination as to whether the content at issue was indeed unlawful. It is concerning that the Court failed to take these issues into account.

- The Court instead approved of “reporting button” type procedures, which do not require any explanation as to why the content should be removed, and that internet intermediaries are not necessarily best placed to judge what content should be removed – especially through automated filtering. This has been the subject of extensive *criticisms and debate across the EU*, for instance in the context of the *Defamation Act 2013 in the UK*. This was again entirely ignored.
  - While it may be true that the damages imposed on Delfi were relatively small, Delfi should never have been held civilly liable for the offensive comments when it had removed them immediately upon notice. To insist otherwise would defeat the purpose of the defence based on the ECD and would be highly likely to have a chilling effect on the free flow of information online.
3. The Court’s reasoning and some of the conclusions reached appear to be illogical or contradictory.
- The Court didn’t appreciate that its preferred approach to intermediary liability will force intermediaries to engage in pre-moderation or blocking. This is despite the fact that the Court welcomed that Delfi had not been forced to adopt a specific approach to moderation. This goes against a ruling by the Court of Justice of the European Union *SABAM v Scarlet Extended* (mentioned in the Court’s judgment at para. 45).
  - The Court places heightened responsibility on Delfi to monitor content that is more likely to attract negative comments. This acts to deter news portals from reporting on controversial topics that may divide opinion and spark debate, or to disable comments on any such article. This chilling effect on freedom of expression is entirely overlooked.
  - The Court overlooked that the only reason the comments had remained online for 6 weeks was because the claimant had failed to notify Delfi about them. When they did notify Delfi, they did so by letter rather than using the quicker notice and takedown procedure.

- The Court made much of the fact that the applicant company was a commercial operator rather than, for example, an individual blogger moderating his or her blog. However, the Court failed to explain the connection between drawing advertising revenue from readers' comments and taking responsibility for that content. The possible impact of this judgment on the ability of already struggling news entities to generate revenue through their websites is entirely overlooked.
- The Court assumes wrongly that all "injured parties" act in good faith when it comes to notice and takedown procedures. It assumes that all reported content is illegal, and that filters are some kind of "magic bullet" to prevent against illegal content online. Experience has demonstrated time and again that this is not the case.

The upshot of the Court's judgment is that news portals should remove their comments sections in order to avoid liability. The Court's approach to the "dangers" of information online is very conservative, and overlooks the way the Internet has enabled people to engage in public debates, and in many ways enhanced journalism by doing so.

ARTICLE 19 is concerned that the judgement in *Delfi* is likely to create even greater *legal uncertainty* in this area.





# Hate speech in online media in Albania

**Ilda Londo,**

*Albanian Media Institute*

## **Main information on regulation of hate speech in Albania**

**Internet penetration in the country:** 210,000 subscribers to broadband, 1.4 million users from mobile phones

**Most read online media outlets, including websites of traditional media, among top sites:** telegrafi.com (5<sup>th</sup> overall rank,) gazetaexpress.com (7<sup>th</sup>), balkanweb.com (10<sup>th</sup>), Top Channel TV (12<sup>th</sup>), Shekulli Online (13<sup>th</sup>), Panorama online (14<sup>th</sup>), Gazeta Tema (16<sup>th</sup>), Shqiptarja.com (19<sup>th</sup>), Noa (21<sup>st</sup>), Albeu (23<sup>rd</sup>), etc.<sup>1</sup>

**Laws:** Penal Code Art. 265 on Incitement of hatred between nationalities, and Art. 266 on Endangering public hatred against parts of the population

### **Media specific laws/regulations – Audiovisual:**

- Audiovisual Media Law (Art. 32) states that media services must not contain any incitement to hatred based on race, sex, religion or nationality
- Audiovisual Media Law (Art. 91) states that the Albanian Radio Television shall deliver content that serves “the nation, all society groups, including the minatory groups”

**Code of Ethics:** applies to all persons undertaking journalistic or editorial activities (2006)

The Code states that the press “respects diversity of opinions and opposes any discrimination based on gender, race, nationality, language, religion, ideology, culture, class, or conviction, if the convictions do not go against fundamental human rights”.

**Self-regulatory body supervising the Code:** There is no national self-regulatory body in Albania.

**Media included in self-regulatory system:** There is no formal self-regulation body. Some in-house self-regulation mechanisms have, however, appeared in Respublica, MAPO, and Tirana Observer in the form of a dialogue with readers through the readers’ comments in a separate section of their websites.

**Examples of media establishing terms and conditions for online comments:** Some media have established rules, including registering, filtering comments, and deleting inappropriate comments. Some of these include Panorama, Shekulli, Gazeta Shqip, Gazeta Start, Albeu.com, and NOA.

<sup>1</sup> Alexa, “Top Sites in Albania”, February 2014. <http://www.alexa.com/topsites/countries/AL>

## I. Media landscape and importance of online media

Overall, Albania's media market is small in economic terms but dynamic and rich in numbers. The Albanian press has changed significantly from the socialist period, today covering the full political spectrum from left to right. However, plagued by poor infrastructure of the print distribution system, a weak subscription system coupled with high prices, as well as mounting competition from television stations, few papers reach a significant readership. Albania has 25 daily newspapers, but the figures on circulation and on the sales of newspapers are not made public. In 2013, the press covered the findings of an empirical study, conducted in Tirana, at press selling points. According to these findings, the highest-selling newspaper reached up to 4,200 copies per day, in a city of at least 600,000 inhabitants.<sup>2</sup> The same study estimated that sales in the rest of the country equaled those of Tirana or exceeded it by at most 20 to 30%.<sup>3</sup>

In line with the predominant European practice, Albania has a dual broadcasting system with public service media and commercial broadcasters. *Radio Televizioni Shqiptar* (Albanian Radio Television, RTSH) with its respective local branches, is the public service broadcaster of both radio and television. Electronic media outlets have mushroomed. According to the Authority on Audiovisual Media, there are 56 radio stations with a local license and two radio stations with a national license. Moreover, 71 television stations have a local license, while two of them have a national one. In addition there are 83 cable stations operating all over the country.<sup>4</sup> However, professional development of media outlets has been uneven, with capital-based media developing at a faster rate than local and minority media, which are comparatively weak. Some media groups in the capital are modern and efficient, while the situation in the other districts is significantly worse.<sup>5</sup> This disparity in development is highly related to the economic situation of these media. According the 2013 Balkan Media Barometer report for Albania, "The size of the market is even more detrimental to media diversity, since minority media and local media are often the ones operating in poorer contexts and are hit harder by lack of advertising."<sup>6</sup>

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<sup>2</sup> Migena Aleks, Ja sa kopje shiten gazetate ne Tirane, <http://www.ama-news.al/2013/04/ja-sa-kopje-shiten-gazetat-ne-tirane/>

<sup>3</sup> Ibid.

<sup>4</sup> AMA, List of licensed operators: [http://ama.gov.al/index.php?option=com\\_content&view=article&id=183&Itemid=6&lang=sq](http://ama.gov.al/index.php?option=com_content&view=article&id=183&Itemid=6&lang=sq)

<sup>5</sup> International Research & Exchanges Board (IREX): *Media Sustainability Index 2013: Albania*, <http://www.irex.org/resource/albania-media-sustainability-index-msi>.

<sup>6</sup> FES, Balkan Media Barometer: Albania 2013: [http://institutemedia.org/Documents/PDF/FES%20-%20BMB%20Albanian%202013%20book%20ENG%2003\\_12\\_2013.pdf](http://institutemedia.org/Documents/PDF/FES%20-%20BMB%20Albanian%202013%20book%20ENG%2003_12_2013.pdf)

The high number of media outlets in a small country that is unable to economically sustain so many media has resulted in a fragmented and financially weak market. Transparency of ownership, especially transparency of media funding, remains an unresolved and controversial issue. Concerns over media's cross-subsidization from other businesses of their owners and the latter's relations to politics have led to doubts about media standards and editorial independence. The Balkan Media Barometer found that, "Most media owners clearly have business interests other than the media, while the latter is a tool to cater to their businesses."<sup>7</sup> In addition, allegations of politically allocated state advertising, and the influence of big commercial advertisers and their impact on media independence have been constant concerns. "Distribution of public advertisement has always been preferential and not at all transparent, leading to unavoidable effects on media independence," stated IREX in its 2013 *Media Sustainability Index* report on Albania.<sup>8</sup> Apart from the dubious practices of distributing public advertisement, commercial advertisement remains crucial to the survival of commercial media. Large advertisers have been said to have influence over media's editorial policies.<sup>9</sup> Investigative reports published on media practices confirmed the practice of big companies using different methods to sway editorial policy in newsrooms.<sup>10</sup>

According to the IREX Media Sustainability Index, while the Albanian media system made significant progress over many years, such progress has stalled in the recent years. European Union's Progress Reports on Albania have mirrored the same concerns. In 2012, the report stated that freedom of expression is generally upheld in Albania, appreciating the progress made in amending defamation laws: "Good progress was made as regards defamation with the adoption in March 2012 of the amendments to the criminal and civil codes abolishing prison sentences and special protection of public officials."<sup>11</sup> However, the report underlined that the public service broadcaster's editorial independence from the government had not improved and that the regulatory authority of electronic media still lacked sufficient administrative and technical capacity, and independence. Other issues that the EU Progress Reports have highlighted in recent years have been economic pressure on the media, the lack of

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<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> IREX, MSI 2013: Albania.

<sup>10</sup> Besar Likmeta, "Big advertisers subvert Albanian media freedom," January 2014, <http://mediaobservatory.net/radar/big-advertisers-subvert-albanian-media-freedom>

<sup>11</sup> European Commission, Albania 2012 Progress Report.

work contracts for journalists, and self-censorship among journalists. All of these issues, along with lack of transparency with regards to media funding, have led to a situation wherein “editorial independence continues to be hampered by private political and economic interests”<sup>12</sup> amid mounting concerns that public advertising is directed to television channels that are supportive of the government. Several investigative articles published data indicating that the State spent at least €780,000 between June 2012 and the end of 2013 on TV adverts, and almost all the public advertisement budget went to TV stations and agencies owned by media owners close to former government.<sup>13</sup>

The spread of the internet has been a gradual process, with significant increases in recent years. According to the Postal and Electronic Communications Authority about 210,000 subscribers had access to broadband internet in the first half of 2013,<sup>14</sup> and 1.4 million subscribers accessed the internet through their mobile devices in 2012.<sup>15</sup> According to the 2011 Census, Albania’s population was 2,800,000, with 722,262 households.<sup>16</sup> The number of subscribers to broadband connection was 7.6% in 2012.<sup>17</sup> The number of subscribers with broadband connection through smart phones increased considerably in 2012 to 594,000 compared to 248,000 in 2011.<sup>18</sup> While the fees for internet connection have generally been high, in recent years they have continued to drop and are now considered as average in the region.<sup>19</sup>

All of these facts indicate an increased opportunity to access online media, social networks and other information online. Meanwhile, media and information literacy is not offered as a subject and remains an unfamiliar concept to the public and to journalists. There are no consumer surveys or other data that indicate the habits and preferences of individuals on news consumption, especially on the kind of content they access online. However, Alexa.com rankings show that many of the

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<sup>12</sup> Ibid.

<sup>13</sup> Besar Likmeta, “Big advertisers subvert Albanian media freedom,” January 2014, <http://mediaobservatory.net/radar/big-advertisers-subvert-albanian-media-freedom>

<sup>14</sup> Authority on Electronic and Postal Communications, “Statistical Indicators for first half of 2013,” <http://akep.al/images/stories/AKEP/statistika/TREGUESIT-STATISTIKORE-6-MUJORI-I-2013.pdf>

<sup>15</sup> Authority on Electronic and Postal Communications, “Statistical Indicators for 2013,” <http://akep.al/images/stories/AKEP/statistika/TREGUESIT-STATISTIKORE-2012-090713.pdf>

<sup>16</sup> Albania Census of Population and Households 2011, <http://www.instat.gov.al/en/census/census-2011/census-data.aspx>

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

top websites in the country are news websites, both of traditional and new media. The most highly ranked news media websites for February 2014 include: telegrafi.com (a Kosovo-based newspaper, ranked 5th), gazetaexpress.com (also Kosovo-based newspaper, ranked 7th), balkanweb.com (news agency, ranked 10<sup>th</sup>), the national commercial TV Top Channel (ranked 12<sup>th</sup>), followed by online versions of daily newspapers Shekulli (13<sup>th</sup>) and Panorama (14<sup>th</sup>), Gazeta Tema (16<sup>th</sup>) and Shqiptarja.com (18<sup>th</sup>).<sup>20</sup> Other popular sources of news and information include news agency NOA (ranked 21<sup>st</sup>), Albeu (23<sup>rd</sup>) and lajmifundit.al (32<sup>nd</sup>).<sup>21</sup>

The presence of traditional media online is ubiquitous, with almost all major newspapers and TV stations having an important online presence. As can be seen from the ranking, with a few exceptions, online versions of these traditional media still rank higher than online news agencies or news portals. A reason for this might be found in the combination of traditional media exploring online media opportunities and the close similarity of online media to traditional media content. As a 2012 report on online media indicated: "Online content so far is not dramatically different from that offered in traditional media."<sup>22</sup> In fact, the same texts are often copy-pasted from one media outlet to another. The same report found that, "There is a prevalence of commentary journalism or that feeding off of information from press conferences, press statements, or events by political forces, as well as releases by the police, courts, or prosecutor's offices. In practice, this type of journalism requires less spending than field or investigative journalism and the economic factor could be a partial explanation of its dominance."<sup>23</sup> It also seems that human resources of Albanian news websites remain limited, with figures indicating fewer staff than in traditional media outlets.<sup>24</sup> This is an additional factor that has not enabled online media to fully compete with traditional media's established reputation, although some online news portals are also close in ranking, albeit still behind, websites of traditional media.

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<sup>20</sup> Alexa ranking: <http://www.alexa.com/topsites/countries/AL>

<sup>21</sup> Ibid.

<sup>22</sup> Open Society Institute, "Mapping Digital Media: Albania," 2012, <http://institutemedia.org/Documents/PDF/OSF-Media-Report-Albania-02-17-2012-final-WEB.pdf>

<sup>23</sup> Ibid.

<sup>24</sup> Rrapo Zguri, "Online media in Albania: an overview," <http://www.institutemedia.org/Documents/PDF/rr-zguri-english-follow-up.pdf>

## II. Regulation of hate speech

### 1. The general legal framework

The Constitution of Albania, although not specifically mentioning the term “hate speech”, includes among its founding principles the need to respect human rights and freedoms, religious co-existence and respect for minorities. Article 3 specifically states: “The independence of the state and the integrity of its territory, the dignity of the person, his rights and freedoms, social justice, the constitutional order, pluralism, national identity and inheritance, religious coexistence, and coexistence with, and understanding of Albanians for minorities are the bases of this state, which has the duty of respecting and protecting them.”<sup>25</sup>

More specifically, hate speech is regulated in the Criminal Code, which means that it is applicable to all citizens, and it is not media-specific. Article 265 of the Criminal Code states: “Inciting hate or disputes on the grounds of race, ethnicity, religion or sexual orientation, as well as the intentional preparation, dissemination or preservation for purposes of distributing writings with such content, by any means or forms, shall be punishable with two to ten years of imprisonment.” In addition, Article 266 further details the prohibition of hate speech: “Endangering public peace by calling for national hatred against other parts of the population, by insulting or defaming them, or by requesting the use of force or arbitrary actions against them, is punishable by two to eight years of imprisonment.” So far there have been no public cases of use of these articles against the media.

Meanwhile, the 2008 Law no.9970 on Gender Equality in Society has a special chapter aimed at regulating gender equality in the media, protecting diversity and limiting hate speech. The chapter assigns the media the role of raising awareness on gender equality by non-discriminatory reporting, use of gender-neutral terminology, and avoiding gender stereotypes. This law also forbids the “broadcasting, printing and publication of information and material that contains or implies differences that are humiliating or disparaging on the basis of gender, or that display exclusive or offensive attitudes towards either gender.”<sup>26</sup>

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<sup>25</sup> Constitution of the Republic of Albania, Art. 3, 1998, amended in 2007, available at: <http://www.osce.org/albania/41888>

<sup>26</sup> Law no.9970, “On Gender Equality in Society,” 2008, Art. 26, available at: <http://www.osce.org/albania/36682>

## 2. Media specific regulations

Print media are not subject to detailed regulation. The “Law On Press” [Ligji për Shtypin] has only one article stating the following: “The press is free. Freedom of the press is protected by law.”<sup>27</sup> Meanwhile, the broadcasting regulation has been amended frequently and the new law on Audiovisual Media entered into force in April 2013. In its fundamental principles of audiovisual broadcasts, it states: “Audiovisual broadcasting activity shall impartially comply with the right to information, political and religious beliefs, personality, and dignity and with other human fundamental rights and freedoms.”<sup>28</sup> In addition, broadcast media should be guided by the “non-allowance of broadcasts inciting intolerance among citizens” and by the “respect for good neighborly relations among peoples”, among others.<sup>29</sup> Similar provisions are repeated continuously throughout the law, applying to license terms, public and commercial broadcasters, community broadcasters, etc. Furthermore, Article 32 states: “The audio and/or audiovisual media services must not contain any incitement to hatred based on race, sex, religion or nationality.”<sup>30</sup>

In addition to the law’s general prohibition of acts that might incite hatred and conflict from any media service, the public broadcaster in particular has the duty to meet the needs of all groups in society, including minorities: “As a media service provider devoted to the most noble ideals of national public broadcasting service, the Albanian Radio Television (ART) shall deliver qualitative radio and television services to inform, educate and entertain the public, serving the nation, all the society groups, including the minority groups.”<sup>31</sup> In addition, Article 118 stipulates that ART should create a “wide range of programs in the Albanian language that reflect cultural diversity, entertain, inform, and educate the public, to ensure coverage of sports, religious, and cultural events and to meet the expectation of the public in general and of individuals who belong to social minorities, fully respecting human dignity at all times.”<sup>32</sup> Article 120 forbids the public broadcaster from engaging in political and religious propaganda, which in theory can also be a source of hate speech. However, this ban has not been actively monitored

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<sup>27</sup> Law no. 8239, 1997, available at: <http://www.icnl.org/research/library/files/Albania/press.pdf>

<sup>28</sup> Law 97/2013, “On Audiovisual Media,” Art. 4, available at: <http://institutemedia.org/Documents/PDF/Law%20on%20Audiovisual%20Media.pdf>

<sup>29</sup> Ibid.

<sup>30</sup> Ibid, Art. 32

<sup>31</sup> Ibid, Art. 91

<sup>32</sup> Ibid, Art. 118



in practice by the regulatory authority on electronic media, nor by the parliament, whose role includes monitoring the annual activity of the public service broadcaster. It remains to be seen whether the Audiovisual Media Authority, the regulator responsible for audiovisual services, will have a role in monitoring and acting on hate speech violations. The practice so far has shown that the regulator has refrained from interfering with content.

Apart from audiovisual media regulation, there is also some limited regulation for online content, although it does not refer specifically to news or media. The law on Albanian ratification of the additional protocol of the Convention on Cybercrime can be considered to be the only content regulation in this regard. In 2008, the Penal Code was amended to include regulation of the distribution by computer of xenophobic or racist material.<sup>33</sup> More specifically, the article states: "Offering to the public and purposeful dissemination through computer systems of materials with racist or xenophobic content are penal offences punishable by fine or imprisonment up to two years."<sup>34</sup> The second paragraph of the same article also covers purposeful racial defamation and slandering: "Purposeful public defamation through computer systems, against a person due to his/her ethnicity, nationality, race or religion is a penal offence and is punishable by fine or imprisonment up to two years."<sup>35</sup>

In addition, there is no specific body that deals with hate speech in the media, although the competences of several institutions can deal with complaints on hate speech in theory. First, the Commissioner for Protection from Discrimination has the duty to react to cases of discrimination of every kind, either following complaints of interested actors, or ex officio. The Office of the Commissioner, founded in 2010, has issued three decisions and recommendations in three cases that are related to hate speech. In the first case, it involved a Member of Parliament stating that homosexuality is a sickness.<sup>36</sup> The Commissioner promptly issued calls to the parliament to avoid using such language in its proceedings and to respect human rights and dignity.<sup>37</sup> The second case involved another Member of Parliament, who

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<sup>33</sup> Penal Code, Art. 119/a, 2008, available at: [http://ligjet.info/kodipenal/pjesa\\_ii/kreu\\_ii/seksioni\\_viii/neni\\_119/a](http://ligjet.info/kodipenal/pjesa_ii/kreu_ii/seksioni_viii/neni_119/a)

<sup>34</sup> Ibid.

<sup>35</sup> Ibid, Art. 119/b.

<sup>36</sup> "Komisioneri kunder diskriminimit kritikon Tritan Shehun per deklaratat e tij per homoseksualitetin," October 27, 2011, Gazeta Tema: <http://www.gazetatema.net/web/2011/10/27/komisioneri-kunder-diskriminimit-kritikon-tritan-shehun-per-deklaratat-e-tij-per-homoseksualitetin/> and "Parada Gay, Ekrem Spahia: T'i kapim në hu. Reagon LGBT: Të shkarkohet," March 23, 2012, Gazeta Shekulli: <http://www.peshkupauje.com/2012/03/parada-gay-ekrem-spahia-ti-kapim-ne-hu-reagon-lgbt>

<sup>37</sup> "Homoseksualet: fituam ndaj Tritan Shehut," Panorama, October 28, 2011: <http://www.panorama.com.al/2011/10/28/homoseksualet-fituam-ndaj-tritan-shehut/>

expressed his strong disapproval of gay people in an interview when asked about the gay pride parade that was planned, even stating that, “We should beat them up.”<sup>38</sup> The decision that the Commissioner made after complaints by LGBT organizations concluded that these remarks “indicate discrimination and prejudice, infringing upon the rights to safety and protection of people due to their sexual orientation.”<sup>39</sup> The decision recommended moderation in such language in the future and a public apology within 15 days of the decision,<sup>40</sup> but no formal apology was made. The only case in which the Commissioner was involved in relation to media and discrimination was in December 2012, when the chairman of a Macedonian minority commune complained that an article published in a daily newspaper discriminated against him and his ethnic group. After reviewing the case and contacting both parties, the Commissioner decided that there were no grounds for discrimination in the published report published.<sup>41</sup>

While media lack a self-regulatory body, the audiovisual media law provides for the establishment of a Council of Complaints within the Audiovisual Media Authority. The Council would be in charge of handling complaints on content, specifically ethical ones, but also responsible for conducting surveys, debates, and studies related to ethical matters in the media. The implementation of the new law, introduced in March 2013, has been slow, and this Council has not yet been established. It should be noted, however, that previous experience with a similar structure did not yield any visible results with regard to the improvement of ethics in the media. As part of the National Council for Radio and Television, the regulatory authority, the Complaints-Council for Radio-Television is in charge of dealing with moral and ethical aspects of programming in private and public electronic media. According to a 2012 report by the Open Society Foundations, “To date, the council has issued statements regarding certain controversial issues on broadcasting content. However, the Council’s decisions are not legally binding. A few statements have sparked debate in the media, among media professionals and politicians, but no other consequences have been noticed.”<sup>42</sup>

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<sup>38</sup> “Parada gay, Ekrem Spahiu: Do i kapim në hu,” Balkanweb, March 23, 2012, [http://www.balkanweb.com/bw\\_lajme2.php?IDNotizia=84839&NomeCategoria=shqipëri&Titolo=parada-gay-ekrem-spahiu-do-i-kapim-ne-hu&IDCategoria=2685](http://www.balkanweb.com/bw_lajme2.php?IDNotizia=84839&NomeCategoria=shqipëri&Titolo=parada-gay-ekrem-spahiu-do-i-kapim-ne-hu&IDCategoria=2685)

<sup>39</sup> Commissioner for Protection from Discrimination, Decision no. 57, May 8, 2013, : [http://kmd.al/skedaret/1374673638-Vendim\\_57.pdf](http://kmd.al/skedaret/1374673638-Vendim_57.pdf)

<sup>40</sup> Ibid.

<sup>41</sup> Decision no.30, April 4, 2013, of Commissioner for Protection from Discrimination: [http://kmd.al/skedaret/1369609083-Vendimi%20i%20z.Arben%20Rozhani%20Komuna%20Liqenas%20\(1\).pdf](http://kmd.al/skedaret/1369609083-Vendimi%20i%20z.Arben%20Rozhani%20Komuna%20Liqenas%20(1).pdf)

<sup>42</sup> Mapping Digital Media: Albania, 2012, <http://www.institutemedia.org/Documents/PDF/OSF-Media-Report-Albania-02-17-2012-final-WEB.pdf>

### 3. Media self-regulatory framework

Self-regulation is a process that, in spite of numerous attempts, still remains in its infancy. Efforts to mold the journalism profession to its current state started only after the change of regime in 1991. In addition, professional organization of journalists is very weak. As a result, currently there is a generally vivid debate on media ethics but no self-regulatory body that can act on particular violations or trends.

The self-regulatory efforts in the media started in 1996, when the main journalism associations endorsed the Code of Ethics. However, no media outlet really used the code,<sup>43</sup> let alone set up a body that would exercise the code amongst media professionals. In 2006, when the code was revised, new attempts to establish a press council were formally welcomed by media outlets, but they failed to take further steps to establish self-regulatory structures. In 2013 some media newsrooms have established a reader's advocate. Otherwise media do not participate in a press council or other similar mechanisms. The 2013 Balkan Media Barometer report for Albania observed that, "In spite of the continuous improvement of the ethical record and the general awareness on basic principles of ethics, the media outlets have found it difficult to commit to self-regulation."<sup>44</sup> Accountability to the public and to colleagues remains extremely low.

With regard to hate speech, the Code of Ethics, revised in 2006, states: "Any media product that propagates war, violence, outrage, or injures the feelings of the public as a whole or in parts is absolutely prohibited."<sup>45</sup> Since a media self-regulation mechanism in the country is absent, there is no debate, monitoring, or observation of case studies on whether media outlets have respected this guideline. Moreover, the Code of Ethics, while in principle also covering online media, did not address this environment specifically, given the relatively low prominence of online media at the time. Hence, there are no specific guidelines on how to deal with ethics in online media in general or with user-generated content more specifically.

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<sup>43</sup> Media Development Center, "Freedom of expression in South East Europe: Media Independence and Self-Regulation," 2007, [http://www.mediacenterg.org/wp-content/uploads/2012/03/SEENPM\\_book\\_new.pdf](http://www.mediacenterg.org/wp-content/uploads/2012/03/SEENPM_book_new.pdf)

<sup>44</sup> Friedrich Ebert Stiftung, "Balkan media barometer: Albania 2013," [http://institutemedia.org/Documents/PDF/FES%20-%20BMB%20Albanian%202013%20book%20ENG%2003\\_12\\_2013.pdf](http://institutemedia.org/Documents/PDF/FES%20-%20BMB%20Albanian%202013%20book%20ENG%2003_12_2013.pdf)

<sup>45</sup> "Code of Ethics of Albanian Journalists," <http://institutemedia.org/codethics.html>

### III. Extent and nature of hate speech in online media

The following section analyses whether regulation and general principles of conduct related to hate speech in online media are followed. It is clear that there is not a single, universally accepted definition of hate speech, which makes it even more challenging to properly monitor its prevalence in the media. This analysis refers to the definition of hate speech according to the Albanian Criminal Code, namely “inciting hate or disputes on the grounds of race, nationality, religion or sexual orientation.”<sup>46</sup> Recognizing that this is a restrictive definition, the monitoring was carried out by identifying hate speech in the broader sense as language that infringes upon “the dignity of the person, his rights and freedoms...religious co-existence, and co-existence with, and understanding of Albanians for other minorities in this state,”<sup>47</sup> as protected in the Albanian Constitution.

The findings are based on the monitoring of three websites of traditional media and of the three news media websites with the highest ranking. They are respectively: Shekulli.com.al, gazetatema.net, and shqiptarja.com; and noa.al, albeu.com, and lajmifundit.al. However, as this ranking varies depending on the period and events of the moment, coverage in other online media or websites of traditional media that are also fairly popular has been considered, such as: gazetastart.com, gazetadita.al, panorama.com.al, alb-observer.com, and gazeta-shqip.com. TV websites that ranked high on popularity were excluded, due to the different type of content they have. It should also be underlined that the monitoring included only what are considered mainstream media, rather than peripheral ones.

In addition to direct monitoring of content on these websites, the assessment also considered previous monitoring and reports that have been carried out on this topic, as well as the experience gathered by the Albanian Media Institute through the organization of conferences, forums, training courses, and media clippings.

The aim is to depict the major trends that exist in online media in relation to hate speech and to discuss possible ways of improving this practice. The main areas considered when monitoring content were:

- trends in reporting on minorities and marginalized groups;
- the language used;

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<sup>46</sup> Criminal Code, Article 265, [http://ligjet.info/kodipenal/pjesa\\_ii/kreu\\_viii/seksioni\\_iii/neni\\_266](http://ligjet.info/kodipenal/pjesa_ii/kreu_viii/seksioni_iii/neni_266)

<sup>47</sup> Constitution of the Republic of Albania, Article 3, 1998, amended in 2007, available at: <http://www.osce.org/albania/41888>

- depiction of stereotypes;
- ethical considerations in publishing news and editing comments;
- hate silence.

The following section aims to shed light on the real problems observed in online media in Albania, how they are expressed, and what their source and impact. The analysis of trends is done through case studies and illustrations of treatment of minorities, reporting on the LGBT community and coverage of special topics that are often the subject of hate speech.

## 1. Reporting on minorities

### *Case study: Reports on displacement of Roma families*

The Roma minority have been present recently in the Albanian press because of incidents in a part of the capital, Tirana, following attempts by the police to displace them from the former military barracks where they lived, in order to allow for the construction of a new building. However, the Roma families refused to move and instead settled in open air in the same place, attracting attention from politicians, diplomats, and civil society. The reporting on this issue has generally been neutral, focusing on reporting the events in a descriptive manner and mainly conveying the statements of politicians, ambassadors, the ombudsman, and civil society activists. Given the diplomatic language used, the reporting was politically correct and neutral. For example, most of the articles conveyed the statements made by politicians and ambassadors, such as in this case: “The European Union has granted 3 million Euros to promote Roma rights in Albania. This community should have equal chances to all other communities in the country. The authorities must guarantee legal solutions,” said EU ambassador Ettore Sequi.<sup>48</sup>

The only exception amongst the statements published in the media was the strong reaction of a TV personality on her Facebook profile. Her statements were made on her personal Facebook profile, but a few papers and websites chose to publish them, which was a questionable decision as they were published with no additional comment or position from the papers, and furthermore were made by a person who has no claim of authority on the matter. The following were some of the statements made: “Take these scoundrels to prison; they only give birth to children to exploit them. Castrate

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<sup>48</sup> “Tema TV: Ambasadoret: Debimi i romeve do te pasqyrohet ne progres-raport,” August 13, 2013, <http://www.gazetatema.net/web/2013/08/13/ambasadoret-debimi-i-romeve-do-te-pasqyrohet-ne-progres-raport-eshte-nje-nga-12-kushtet-e-be/>

them! Do not be hypocrites! They are people with no identity, no meaning. Give them meaning and transform them into real people, or take them to prison... The barracks and the begging are not out of necessity or survival, but their choice to have fun.”<sup>49</sup> Although this was an isolated voice, it was very explicit and strongly against the Roma community. The websites that published these comments seemed to give great importance to the attention-grabbing nature of the reaction without considering that such statements could potentially further incite hatred of Roma.

When speaking of the coverage of Roma in online media, it should also be noted that user-generated comments are significantly different from the reports produced by media staff produce. These user-generated comments are very much in line with the above-mentioned reactions of the public figure against Roma. The Roma are frequently depicted as lazy and evil, and there are calls to deal with what is perceived as more important things, especially matters considered dear to the majority. For example, one user commented, “Do not make such a big deal of Roma, in the previous regime the state offered them houses and they refused to live there. Focus to that part of the society which is entitled to rights because they have contributed to the fatherland.”<sup>50</sup> The idea that the needs of the majority are more important and should prevail and that the majority has the power to grant rights is something found in a large part of user-generated comments. Moreover, there are also extreme comments, which advocate some sort of “final solution,” seeking deportation, or even death of Roma. “Roma must be sent to Egypt as emigrants, that is where they come from,”<sup>51</sup> or “What did the Roma ever give Albania other than foul smell?”<sup>52</sup> The case study and a comparison of newsroom content to users’ comments reveal a clear dichotomy between generally neutral coverage of Roma from the press and the reflections and comments of users of online media. While the first seem to show no signs of prejudice in reporting and convey the statements and events as they happen, the comments clearly show prejudice and hate speech against Roma.

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<sup>49</sup> “Zhaku: Romet jane vet ndertim pa leje, duhen kastruar! Mos u beni hipokrite,” August 13, 2013, <http://lajmifundit.al/2013/08/zhaku-romet-jane-vet-ndertim-pa-leje-duhen-kastruar-mos-u-beni-hipokrite/>

<sup>50</sup> <http://www.gazetatema.net/web/2013/08/15/komiteti-i-helsinkit-per-komunitetin-rom-eshte-bere-shume-pak/>

<sup>51</sup> <http://www.gazetatema.net/web/2013/08/12/basha-hap-ujin-tek-lulishtja-ku-protestojne-romet-per-ti-zbuar/>

<sup>52</sup> <http://www.gazetatema.net/web/2013/08/10/ap-romet-po-kercenohen-me-jete-ne-syte-policise-brace-berisha-nuk-e-ndal-dot-delijorgjin/>

### *Case study: Majority vs. Minorities*

In spring 2013 there were several activities and events involving Greek politicians that attracted significant attention in the Albanian press. For example, the interview of an MP of the Golden Dawn party<sup>53</sup> was considered especially provocative, causing several reactions in pieces published in the Albanian media. In the overall media coverage, the sentiment against the statements made and the general activity of this party appeared less in news pieces than in editorials and opinions. These editorials tended to stereotype and pass a judgment on the qualities of Greeks and Albanians as people. For example, one editorial noted: “Even though the Greeks have done many bad deeds against the Albanian nation, we Albanians have forgiven them and have been tolerant. We have done this for the peace of two peoples, not out of fear, because the Albanian nation cannot be afraid of an economically and psychologically ruined Greece.”<sup>54</sup> This statement is a clear example of the distinction made by the author between “Us” (Albanians) and “Them” or “the Others” (Greeks), claiming the superior nature of Albanians over Greeks. Other editorials and analyses were published, often openly expressing disapproval of Golden Dawn attempts to be active in Albania, and echoing the same sentiment as the above article.<sup>55</sup> A common feature of some of the articles was that the authors did not focus only on the activities or statement of this particular Greek MP, but rather used generalizations of all Greeks and Albanians, where the latter were portrayed as significantly better.<sup>56</sup>

These are opinions, however, and the reporting of the media staff is rarely tinted with such nuances. However, even though editorials and opinion pieces by definition are meant to express the honest opinion of their authors, these types of articles bring forward views that generalize peoples and societies in a stereotypical manner during sensitive and controversial moments. By doing so, these articles tend to rely on reinforcing stereotypes and occasionally revert to hate speech regarding neighbors, rather than attempting to present a full analysis of the existing problems in Albanian, Greek, or other societies. However, it should be emphasized that such articles are rather isolated cases and not the norm in the Albanian media.

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<sup>53</sup> Golden Dawn is a far-right wing party in Greece, sometimes described as neo-Nazi and fascist. Its members have been accused of carrying out acts of violence and hate crimes against immigrants, political opponents, LGBT people and ethnic minorities

<sup>54</sup> A. Llalla, “Replikë çjerrjeve luftë nxitëse të Kristo Papës,” *Shqiptarja.com*, February 3, 2013: <http://www.shqiptarja.com/dossier/2711/replike-cjerrjeve-lufte-nxitese-te-kristo-papes-142095.html>

<sup>55</sup> AMI, Monitoring and comparing hate speech in print media and online media, May 2013.

<sup>56</sup> *Ibid.*

Another trend that is rare and more subtle, although serious, is the belief that the majority of the Albanian society has the power, but not the obligation, to grant rights to minorities and that if it grants these rights, it is a good deed, rather than a duty. These are rare cases that come out mainly in editorials and public statements of politicians and are very difficult to spot in news reporting. However, news and information pieces are not necessarily immune to this idea. The following example of a news article on the Macedonian minority is an illustration. The report focuses on discussions on the change of names of villages in the area inhabited by Macedonians in Albania: "The Macedonian community in south-east is having a greater 'appetite'! After obtaining the change of the name of Liqenas community in Pogradec, changing it to Prolec in Macedonian, they have other terms. Although Albania is not a country that discriminates minorities and treats them as equal to others, minorities, on the other hand, are taking advantage of this, demanding greater rights than they are entitled to."<sup>57</sup> This is a typical example of "Us vs. Them", of supposed victimization of the majority by the minority, and of expression of an opinion that the minorities have rights because the majority grants them. Again, these are very rare cases in reporting, but certainly a trend to watch for in terms of using correct language towards all groups living in the country.

## 2. Reporting on religious communities

Albania has prided itself on a long-standing tradition of religious harmony and tolerance, in which three main religious communities have co-existed peacefully. However, although there are no obvious problems, there have been small incidents from time to time, which have shaken the idea of tolerance and peaceful co-existence.

In summer 2013, one of the main incidents reported on religion was related to the Church of Permet. After the ban on religion in 1967, a church that used to be in the centre of the city was destroyed and a "culture house" was built instead, serving for cultural activities. After the re-institution of faith, the church claimed back its properties. This particular property has been the subject of a long legal dispute, which the court finally gave to the municipality to administer instead of the church. This decision sparked protests from the church, which attempted to physically take hold of the building through a group of priests and members of the parish, clashing with the police. The church considered this a threat to their faith, evoking the ban

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<sup>57</sup> "Pakices maqedonase i shtohet oreksi," March 14, 2013, Gazetastart: <http://www.gazetastart.com/index.php?p=hg&hid=8146&cat=8>



of the communist regime. Some Greek parties and MPs also commented, echoing the same view that faith was under assault by the state, as in the communist regime era.

This incident also reignited one of the existing problems within the Orthodox Church: the archbishop of the church is Greek, a fact that has always been a source of friction and conflict. The reporting of statements and news events in the media was generally neutral. However, several interviews and editorials in a subtle or direct way turned back to an idea that had surfaced earlier: the idea that Archbishop Janullatos is in Albania in order to serve the Greek state and its interests, rather than to take care of the orthodox community. For example, in a report on the events, one of the persons interviewed described the incidents in this way: "The conflict took place because of some manipulated faithful people. They were all from the South. I believe Greece is involved. They still have the law on war in force."<sup>58</sup> Although this is a direct quote from a source, this is an opinion that illustrates a generalized perception, a personal opinion, and claims that the person interviewed cannot prove. Hence, although the media itself was correct in only reporting events, using quotes like these could contribute in reinforcing and perpetuating the existing paranoia regarding relations with Greece.

This paranoia is manifested in visible examples of hate speech in the comments of readers to these articles. There are calls like this: "Death to Greek chauvinism and to all Albanian speakers that support it!"<sup>59</sup> More often than not, there are harsh calls for the archbishop to resign and to leave the country. "All Albanian orthodox people!!! Unite and show this Greek that has usurped Albanian church his place!"<sup>60</sup> In fact, there were users that identified the archbishop with the Golden Dawn party and the Greek state, claiming that he is a Greek agent: "Janullatos, are you with the Golden Dawn or with the chauvinists of the overturned class of monarchs and fascists?"<sup>61</sup> In this way, reporting on religion is often politicized, and the real issue at stake is viewed as an ethnic or political conflict. Even though this incident is a pure matter of property conflict, it can still be very much interpreted as stemming from conflict between two countries or even conflict between religions.

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<sup>58</sup> "Bezati: Konflikti nga besimtare te komanduar, ka gisht Greqia," August 21, 2013, Shqiptarja.com: <http://www.shqiptarja.com/aktualitet/2731/bezatikonflikti-nga-besimtar-t-komanduar-ka-gisht-greqia-172734.html>

<sup>59</sup> <http://www.gazetatema.net/web/2013/08/24/pellumb-xhufi-janullatos-si-kryqtar-i-shekullit-xii-i-jane-nenshtruar-te-gjitha-qeverite-shqiptare/>

<sup>60</sup> <http://www.gazetatema.net/web/2013/08/19/janullatos-sulmet-mbi-kishen-ne-permet-na-kujtojne-vitin-1967/>

<sup>61</sup> <http://www.shqiptarja.com/aktualitet/2731/janullatos-ngjarja-e-permetit-na-kujton-ankthin-e-vitit-1967-172462.html#sthash.SDe7b7pz.dpuf> [Janullatos, me Agimin e Arte je apo me shovinistet e klases se permbysur monarko fashiste? ]

### 3. Reporting on the LGBT community

Albanian media outlets do not have proactive reporting on LGBT issues. However, the LGBT community has been increasingly present in the media, albeit the quality of reporting is debatable. Sometimes there is more coverage of actors opposing this community. For example, in the period before the first pride parade, there was wide coverage in the media, in part due to statements made by a politician who expressed his dissent on LGBT rights. He said: “We are a conservative Albanian party; we value Albanian heritage as important values to a nation. I have no other comments on the parade. I say only: let’s beat them up!”<sup>62</sup>

In the period running up to the June 2013 elections, there was wide coverage of the legal battle of the LGBT community for the right to marriage and adoption, which was part of the political promises of some parties. There were also media outlets that provided space for interviews with representatives of associations that protect LGBT rights and the LGBT community, enabling them to give their view on marriage and adoption. In addition, there were attempts to have more in-depth reporting on the battle for LGBT rights, including the position of politicians and that of religious communities, attempting to have a more complete view and inclusion of all actors.<sup>63</sup>

In fact, currently the opposition to the LGBT community and its derogation in the media come from political actors or other public personalities, while journalists themselves have generally behaved professionally and impartially. As a professional discussion on the media situation underlined, “The coverage of LGBT community has changed significantly in the newspapers compared to a few years ago and seems to be more positive, thanks also to lobbying by this community.<sup>64</sup> By contrast, the LGBT community seems to be the most persecuted community in user-generated comments, where inflammatory language, curses, and threats are published continuously.<sup>65</sup>

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<sup>62</sup> “Parada Gay, Ekrem Spahia: T’i kapim në hu. Reagon LGBT: Të shkarkohet,” <http://www.peshkupauje.com/2012/03/parada-gay-ekrem-spahia-ti-kapim-ne-hu-reagon-lgbt>

<sup>63</sup> V. Karaj, “A do ta pranojnë partitë flamurin e LGBT-së në fushatë,” Mapo, March 6, 2013, qtd. in AMI, Monitoring and comparing hate speech in print media and online media, May 2013.

<sup>64</sup> FES, Balkan Media Barometer: Albania 2013: [http://institutemedia.org/Documents/PDF/FES%20-%20BMB%20Albanian%202013%20book%20ENG%2003\\_12\\_2013.pdf](http://institutemedia.org/Documents/PDF/FES%20-%20BMB%20Albanian%202013%20book%20ENG%2003_12_2013.pdf)

<sup>65</sup> AMI, Monitoring and comparing hate speech in print media and online media, May 2013.

#### 4. Reporting on historical debates

Debates on the history of Albania in relation to the history of its neighbours have proved to be a sensitive subject often accompanied by hate speech. Media reports of events such as book publications by specific historians or activities of historians are rather neutral. However, when the articles consist of transcription of interviews or editorials by certain public figures on authors or historical events considered controversial, part of the neutrality is lost. For example, Oliver Jens Schmitt, a well-known historian who focuses on the history of the Balkans, has become a regular target for some public figures in articles and interviews published in Albanian media. There seems to be a never-ending campaign against this historian by other historians, writers, and other public figures in the country. The accusations range from professional incompetence to allegations that he has Serbian sympathies. Rather than focusing on his work and providing scientific arguments, the allegations against him are often emotional and sometimes include heavy accusations of professional incompetence and plagiarism, which are never proved in the articles. For example, in an analysis of one of his books, an author writes: "So many lies in one paragraph, this is a perverse tendency of a historian, worthy of only disgust."<sup>66</sup> Frequently the argument against his work is that it is damaging Albanian interests, since he prefers Serbs to Albanians, which is reflected in his work and is "a new version of the Pan-Slavic theory of Selisev on Albanians' origins."<sup>67</sup> Overall, while Schmitt is not the only historian to face disapproval in the media, articles against him are typical examples that show a certain resistance in the society to accept different opinions from what has already been established by Albanian historians. Even though media are not directly responsible for the content of these debates but have rather served as a discussion platform, the discussion in this area has remained biased to a certain degree.

Along the same lines, other historical disputes that re-surface in the public debate in the Balkans lead to new waves of hate speech and perceptions of threats from neighbours and of infiltrated agents among Albanians. After the Turkish government asked Kosovo to revise its history textbooks in March 2013,<sup>68</sup> claiming that they were derogatory to Turks, there was a petition

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<sup>66</sup> "Shmitologjia" si disiplinë e të pavërtetave kundër shqiptarëve," 20 February 2013, Standard: <http://www.standard.al/shmitologjia-si-disipline-e-te-pavertetave-kunder-shqiptareve/>

<sup>67</sup> M. Korkuti, "M. Korkuti: Oliver Schmitt ka teori pansllaviste," Gazeta Shqiptare: <http://www.balkanweb.com/gazetav5/artikull.php?id=128450>

<sup>68</sup> "Turqia i kerkon Kosoves te rishikoje tekstet shkollore te historise," March 10, 2013, Shqiptarja.com: <http://www.shqiptarja.com/kosova/2727/turqia-i-kerkon-kosoves-te-rishikoje-tekstet-shkollore-te-historise-146978.html>

signed by Albanian intellectuals against this request and a public debate ensued, which was widely covered in the media.<sup>69</sup> The media provided access to historians and other figures that were both for and against this petition and served as an appropriate forum of discussion. However, user-generated content provided different opinions. Statements by a few historians that it is not totally out of place to revise historical textbooks met resistance and charges of high treason in online comments by readers. Just to mention a few: "Such a shame for our heroic and tortured people from the Turks for many centuries. May these traitors and people that sold their soul die, as they are poisoning us..."<sup>70</sup> Or in response to another historian suggesting that the history textbooks should be revised: "You Ottoman leftover!! I feel sorry for you that you pretend to be a historian and a patriot, but I'm sure you have bought your diploma, you dirty scoundrel!!"<sup>71</sup> Even though the individuals who suggested that it is not wrong to revise history textbooks were professional historians who had the right to impart their professional opinions, when these opinions challenged the established version, they were met as traitors in disguise.

## 5. Reporting on politics

Media have served as a mirror for political debates in the country, which receive the lion's share of media coverage. A monitoring of the main television stations' news programs revealed that politics and coverage of the government comprises 54 percent of the news bulletins, with economics, culture, and sports having 11 percent of air time, and social issues receiving only 9 percent.<sup>72</sup> The situation with print media is highly similar: newspapers lean mostly toward politics and to a much lesser degree toward crime and court reporting, while social issues occupy only a minor space.<sup>73</sup>

The extensive coverage of political life and debate in the country is to be expected, since politics has invaded almost every area of life. The

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<sup>69</sup> "Rishikimi i "Historisë" nën mbikëqyrjen e autoriteteve turke, intelektualët peticion, kundra," March 27, 2013, Shekulli: <http://www.shekulli.com.al/web/p.php?id=19628&kat=87>

<sup>70</sup> "Ferit Duka: Tekstet e historisë duhen riparë, të hiqen fyerjet ndaj turqve," Balkanweb: [http://www.balkanweb.com/bw\\_lajme2.php?IDKategoria=2685&IDNotizia=70453&res\\_start=0#a\\_post\\_comments](http://www.balkanweb.com/bw_lajme2.php?IDKategoria=2685&IDNotizia=70453&res_start=0#a_post_comments)

<sup>71</sup> "Xhufi: Historia duhet të rishikohet. Peticioni nuk m'u ofrua, por nuk do e kisha nenshkruar," Gazeta Tema: <http://www.gazetatema.net/web/2013/03/30/pellumb-xhufihistoria-duhet-te-rishikohet-peticioni-nuk-mu-ofruapor-nuk-do-e-kisha-nenshkruar/>

<sup>72</sup> Institute for Contemporary Studies & the Forum of Free Thought, *Towards a More Professional and Independent Media in Albania*, 2009.

<sup>73</sup> Albanian Media Institute, *Reporting on Social Issues in Newspapers*, 2010.

coverage of politics in the mainstream media consists mainly of the transcriptions of political statements, parliament sessions, etc. The ongoing and inflammatory political debate is probably the main contributor to hate speech in the media. A two-month monitoring of the media in 2013 concluded that “language used by politicians has displayed extreme cases of labelling the political opponents, attacking their private life, launching verbal personal assaults, etc., in an attempt to justify the deep political divisions that exist in the country.”<sup>74</sup> Even though this kind of public discourse is no longer a novelty for the Albanian public, the continuous presence of such discourse in the media does not help to solve the problem; it rather reinforces its presence.

For example, in some articles, especially during election periods, hate speech and personal assaults are found in many statements made by political figures. A monitoring of media outlets before the June 2013 elections found that the statements of politicians published in media focused significantly on assaults or allegations concerning an opponent’s private life.<sup>75</sup> A Member of Parliament is quoted as saying of his former party leader, at the time leader of the opposition: “The reasons might be numerous, but they are all linked to Rama’s name, to his anarchic character, to his unpredictable behaviour, his innumerable incompetencies, his inferiority complex, the Machiavellic techniques he uses... up to his inexplicable desires for ‘pink and rainbow’ colours.”<sup>76</sup> Another government official speaks of the opposition leader in another article: “Rama continues to produce empty slogans conceived in his pink bedroom, while there are no real plans for creating new jobs.”<sup>77</sup>

Apart from allegations or assaults on the family background and private lives of political rivals, the political battle has also engaged in ethnic-based animosity, with statements such as: “Edi Rama has insulted Albanian citizens worse than Serb ultra-nationals or Greek Nazis.”<sup>78</sup> Even calls for violence are sometimes present, although in isolated and specific cases. For example, a leader of a small party expressed his disagreement with a court decision that ruled that two members of the National Guard accused of killing

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<sup>74</sup> AMI, Monitoring and comparing hate speech in print media and online media, May 2013.

<sup>75</sup> Ibid.

<sup>76</sup> K. Islami, “Partia e Ramës neopuniste, miliardere, 99-she,” Panorama, March 4, 2013: <http://www.panorama.com.al/2013/03/04/partia-e-rames-neopuniste-miliardere-99-she/>

<sup>77</sup> “Bozdo: Rama ‘mace e zezë’ për biznesin, bllokoi Gjykatën Administrative,” Balkanweb, March 27, 2013: [http://www.balkanweb.com/bw\\_lajme2.php?IDNotizia=125753&IDCategoria=1](http://www.balkanweb.com/bw_lajme2.php?IDNotizia=125753&IDCategoria=1)

<sup>78</sup> “PD nuk heq dorë nga nacionalizmi, quan antishqiptarë rivalët politikë,” Shqip, February 25, 2013: <http://gazeta-shqip.com/lajme/2013/02/25/pd-nuk-heq-dore-nga-nacionalizmi-quantishqiptare-rivalet-politike/>

four protesters in an opposition rally were innocent, by claiming that the government had taken over the judiciary and comparing it to mafia: “The public opinion should rise and kill them... Mafia is more dignified than them. They are oriental, dirty mafia.”<sup>79</sup> Statements of this type are numerous and seen daily in Albanian traditional and online media.<sup>80</sup> This rhetoric comes from political actors, while media serve as the transmission belt from these actors to the public. However, this verbatim publication of each statement a politician makes, neglecting other public interests, could serve as a topic for media self-reflection.

## 6. Hate silence

Finally, “hate silence” is a distinct characteristic of Albanian media, especially in relation to Roma. While specific groups or minorities are not particularly attacked by the media, they are also under-reported or completely missing from the media scene. For example, in a two-month monitoring of six daily newspapers in 2013, there were only three articles that involved Roma.<sup>81</sup> By contrast, when political actors are involved, the news value of pieces about Roma or other minorities instantly becomes more important. In the case of evicted Roma families in August 2013, foreign ambassadors, the People’s Advocate, and persons waiting to be sworn in as ministers and MPs after the June elections were very active. They went to visit the Roma families regularly in August 2013 and issued statements and interviews to newspapers related to the eviction and potential solution. A simple search in any of the online news websites shows that these events were all covered regularly by all media outlets.<sup>82</sup> It is doubtful that the eviction of Roma people would have received the same attention in the media if there had not been the involvement of high-profile politicians.

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<sup>79</sup> Populli në revoltë, me këtë bandit jo në zgjedhje. FBI zbardhi diskun, tani publik,” Shqiptarja.com, February 8, 2013: <http://www.shqiptarja.com/politike/2732/vendimi-i-21-janarit-ngjela-pritej-nga-gjykata-e-korruptuar-e-berishes-142510.html>

<sup>80</sup> AMI, Monitoring and comparing hate speech in print media and online media, May 2013

<sup>81</sup> Ibid.

<sup>82</sup> Balkanweb: 15 articles on this topic from August 7-August 24: <http://www.balkanweb.com/kerko.php?Fjala2=familjet+rome> ; Gazetatema, 7 articles: <http://www.gazetatema.net/web/page/2/?s=familjet+rome&x=0&y=0> , NOA Agency: 5 articles: <http://www.noa.al/kerko/kerko.php?go> , Shqiptarja.com, 9 articles: <http://www.shqiptarja.com/kerko.php?Fjala2=familjet+rome> , Lajmifundit.al , 11 articles: <http://lajmifundit.al/?s=familjet+rome>

## IV. Measures taken by media to address online hate speech

The advent of online media and the establishment of online versions of traditional media opened new gates to information. The interactivity that the new technology provided also brought along an explosion of comments from users. New and online media, being more concerned in their first stage of development with producing articles, updating the information quickly and increasing the number of visitors, tended to neglect ethical issues. As a result, an avalanche of inappropriate comments emerged with online media. Gradually the new media started to turn their attention to ethics, in an attempt to curb hate speech and improve the level of decency of content.<sup>83</sup>

However, there are not unified or generally imposed media policies on user-generated content (UGC). The lack of clarity of the legal practice and definitions regarding who is legally liable for hate speech on websites has also contributed to a situation where the media sector does not have a coherent approach to this phenomenon. Each media house decides on its own how to deal with UGC. The range of policies goes from lack of any policy or intervention, to a warning to readers to formulate decent comments, to some moderation, or more severe moderation where only comments considered relevant and decent go through. Even in cases when UGC is filtered, it is up to each media outlet to decide whether to do it pre- or post-publication, depending mainly on the degree of priority given to ethics in each media house.

Currently, several online media have imposed basic rules on publishing comments. For example, Shekulli online, one of the most followed online media, states: "Shekulli newspaper asks all its readers not to use insults, and to refrain from denigration of human dignity in these comments. Instead, your logical facts and arguments can be much more powerful without them."<sup>84</sup> The newspaper's current policy is to delete offensive or inappropriate comments after publication, leaving just the username of the person who had commented and the note: "The comment cannot be published for ethical reasons."<sup>85</sup> Other websites seem to have a more strict policy, such as Panorama: "It is our wish to not infringe on your opinions, but please

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<sup>83</sup> Rapo Zguri, "Online media in Albania: an overview," <http://www.institutemedia.org/Documents/PDF/rr-zguri-english-follow-up.pdf>

<sup>84</sup> Shekulli.com.al: Gazeta 'Shekulli' iu kërkon gjithë lexuesve të saj, që mundësisht të mos përdorin sharje, fyerje denigruese ndaj dinjitetit njerëzor nëpër komente. Në vend të tyre, faktet dhe argumentet tuaja logjike mund të jenë shumë më të fuqishme pa to. Me respekt dhe falemnderit për pjesëmarrjen tuaj, mjaft të vlefshme në punën tonë!

<sup>85</sup> See for example the comments after this article: <http://www.shekulli.com.al/web/p.php?id=42148&kat=102>

refrain from personal insults in your comments, which should be related to the article or topic in question. Otherwise, they will not be published.”<sup>86</sup> An initial review of the comments reveals an acceptable level of discussion and exchange of opinions.

A more specific case is that of Respublica, which has started a process resembling that of a reader’s advocate within the newsroom. This is a collective blog and news portal, publishing a selection of main news and articles from other traditional or online media, as well as pieces by a group of authors from Respublica. In the past, the website had published a few editorials aimed at leading readers’ comments to ethical and constructive discussions on the related topics, instead of personal attacks against writers. In 2013, they started an initiative close to establishing a reader’s advocate. Since the website’s articles are opinionated and present each author’s interpretation, Respublica started a practice in which each author responds to reader complaints and comments separately.<sup>87</sup> This is the first such case in Albanian media that establishes direct and online communication with readers.

News agencies and online media have also followed different practices. Gazetastart.com filters user-generated comments regularly, and in an editorial in February 2013 stated:

“Apart from news, an important part is also readers’ comments, which in many cases choose insult and denigration, rather than commenting on the topic. Publication of such messages often leads to curiosity and reactions, which can lead to a higher number of clicks. In order to achieve this, even important daily newspapers allow and promote the publication of comments that are insulting not just to a political party, but also to specific persons. Unlike many other media, “Gazeta Start” has limited this unethical phenomenon since the very beginning. We are determined to not allow in any case or for any reason comments that have no relation to the topic and that violate moral principles.”<sup>88</sup>

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<sup>86</sup> Panorama.com.al: Te nderuar komentues! Duke mos dashur te cenojme opinionet tuaja, lutemi qe ato te mos permbajne fyerje dhe ofendime personale dhe te kene lidhje me shkrimin, apo temen per te cilen komentohet. Ne te kundert, nuk do te publikohen. Ju falenderojme qe na ndiqni dhe ju ftojme te vazhdoni te jeni pjese e Panorama Online.

<sup>87</sup> All reactions are contained in a section, whose link is also on Respublica’s frontpage: <http://respublica.al/editor-vs-readers>

<sup>88</sup> “Media online, por si?”, Gazeta Start: <http://www.gazetastart.com/index.php?p=hg&hid=7013&cat=8> [“Krahas lajmeve, një pjesë e rëndësishme ... janë edhe komentet e lexuesve, që në shumë raste zgjedhin fyerjen dhe denigrimin ndaj opinionistëve ose gazetarëve që shkruajnë artikujt, duke mos pasur kurrfarë lidhje me temën. Publikimi i mesazheve të tilla shpesh krijon kureshtje dhe nxit reagime të shumta, çka mund të çojnë në rritjen e klikimeve. Për t’ia arritur kësaj, madje edhe gazeta të mëdha të përditshme lejojnë dhe nxisin publikimin e komenteve që kanë përmbajtje fyese jo vetëm ndaj një



In addition, the newsroom notes in the comments section: “Clarification: We inform all our readers that comments with an offensive, anti-religious, and divisive vocabulary will not be published!!!”<sup>89</sup> The website has a generally acceptable stream of comments, focusing on the topic and article. The same is true for other websites that have consistently shown concern for an ethical level of discussion from users, such as *republika.al*, *albeu.com* and *noa.al*. However, in general, although regulation of user-generated content in online media is a common concern, only a handful of media outlets have taken specific steps in this direction.

In conclusion, it would be an oversimplification to say that hate speech in Albanian media does not exist. However, the cases when one comes across flagrant examples of hate speech in the mainstream Albanian press are increasingly rare. This might be due in part to continuous training and awareness from media organizations and journalists. Moreover in most cases, the news on minorities or groups and communities at risk of suffering from hate speech are mostly of a concise, telegraphic nature. This is especially true for online media and news agencies, which are mainly concerned with producing quick, short, to-the-point news. More often than not, the news in online media comes in the form of conveying statements made by public actors, rather than more lengthy or in-depth reports. This form of reporting greatly reduces the risk of using hate speech, although there are still problems.

By contrast, user-generated content is a rich source of hate speech, producing inflammatory comments, insults, and derogatory speech against all possible groups, people, or individuals. Some media outlets have started to take steps such as requiring the registration of people that comment, filtering comments or deleting comments after publication. Other media do not take any action at all. Overall, mirroring the weak self-regulatory media system in the country, self-regulation efforts in online media are limited to dealing with users’ comments at the institutional level rather than creating self-regulatory bodies within the profession.

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partie të caktuar politike, por edhe ndaj personave konkretë. Ndryshe nga shumë të tjera, “Gazeta Start” i ka vënë kufi që në fillim këtij fenomeni aspak etik, që cënon jo autorin e një artikulli, por edhe ndihmon në krijimin e një kulture “rruge”, pa kurrfarë vlere. Ndaj, ne që prej fillimit kemi zgjedhur që të mos lejojmë në asnjë rast dhe për asnjë arsye, asnjë koment që nuk ka përmbajtje me temën dhe që shkel parimet morale.”]

<sup>89</sup> Gazeta Start: <http://www.gazetastart.com/Kreu> [“Sqarim: Njoftojmë të gjithë lexuesit tanë se komentet të cilat përmbajnë fjalor ofendues, antikombëtar, antifetar, përçarës NUK DO TË PUBLIKOHEN!!!”]

## Recommendations

- Online media, websites of traditional media, news portals, and blogs should adopt voluntary codes of conduct or clear rules for their websites and discussion forums.
- Codes should be followed up with mechanisms that ensure their implementation, determined to be the most suitable by the specific media outlets.
- Any such codes should ensure that the rules do not infringe on freedom of expression or freedom of the media.
- Furthermore, training of journalists, moderators, and editors working in these environments should be encouraged.
- Media outlets should commit more to self-regulation mechanisms, through in-house ombudsmen, platforms for discussion of ethical issues, and organization of joint self-regulatory bodies.
- Government and civil society should cooperate in initiating and implementing curricula for media and information literacy, including education on preventing and fighting hate speech and promoting diversity.
- Media should adopt a more proactive approach in covering social diversity and marginalized groups in a positive and objective way, seeking to avoid hate silence.
- Civil society activists should provide media with the necessary guidance and information on good practices in covering marginalized groups, minorities, and other underrepresented groups.

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# Hate speech in online media in Bosnia and Herzegovina

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## **Main information on regulation of hate speech in Bosnia and Herzegovina (BiH)**

**Internet penetration in the country:** 57%; 2,184,500 users

**Most read online media outlets:** klix.ba (reach 25.13%); doznajemo.com (16.56%); haber.ba (13.17%); cafe.ba (11.58%); magazin.ba (11.24%); (all data from Audience Measurement, November 2013); Note: not all media are included in this measurement system, such as avaz.ba, the online version of one of the major dailies, which is ranked by Alexia as the 10<sup>th</sup> top website.

**Laws:** “public incitement of national, racial or religious hatred, discord or hostility”: Criminal Code of the Federation of Bosnia and Herzegovina (FBiH) article 163, Criminal Code of the Brčko District (BD) article 160, Criminal Code of the Republika Srpska (RS) article 390;

### **Media specific laws/regulations - Broadcasting:**

- inciting language or language of hate in radio or television: Criminal Code of FBiH (Article 363/2) and Criminal Code of Brčko District (Article 357/2)
- broadcasting of content involving discrimination and prejudices: (Code on Audio-Visual and Radio Media Services, article 3);
- incitement of hatred, violence or discrimination: (Code on Audio-Visual and Radio Media Services, article 4);

**Media specific laws/regulations - Print and online media:** Provisions related to hate speech within the Code for Print and Online Media (articles 3 and 4);

**Ethical principles** defined in the Code pertain primarily to content generated by journalists/media outlets; the Press Council of BiH treats the media as accountable in terms of removal of the contested user-generated content after the mediation or decision by the Press Council.

**Self-regulatory body supervising the Code:** Press Council of BiH.

**Media included in self-regulatory system:** Online media outlets – including both journalistic products and user content; other online platforms, as well as content of social media, blogs and forums are not included.

**Examples of media establishing terms and conditions for online comments:** many media have done so, including Radio Sarajevo, Bljesak, Klix; but rather than rules for comments, consistent moderation of the content is considered to be pivotal.



## I. Media landscape and importance of online media

Bosnia and Herzegovina is a small media market. The country has about 4 million inhabitants, and advertising revenues were estimated at \$65.47 million in 2012.<sup>1</sup> Still, the number of media outlets is disproportionately high. Currently, there are 43 TV stations (31 private and 12 public), as well as three public service broadcasters: RTVFBiH, RTRS and BHRT. Television still plays the dominant role as a source of information, with nearly all households owning a TV set (98.2%, Džihana, 2012: p.15). In addition, there are currently 144 radio stations, out of which 79 are private and 62 public.<sup>2</sup> There are nine dailies as well as around 106 different magazines, out of which five or six are major political magazines.<sup>3</sup> The potential reach of online media is reflected in the data on internet penetration and use, which show a rapid and continuous increase. The Communication Regulatory Agency (CRA) assesses that, in 2012, about 57% of the population had internet access, or about 2,184,500 individuals.<sup>4</sup>

The quality and independence of media is in general declining due to continuous shrinking of advertising revenue, which allows for more opportunities for major sources of revenues, including public institutions, to influence media. Under these circumstances, online media are seen as alternative sources of information which potentially can give voice to the marginalized perspectives and contribute to the quality and inclusiveness of the communication processes. Relevant sources indicate that the majority of internet users access the internet on a daily basis (more than three quarters of users according to GfK, March 2012, in Džihana et al, p: 21). A small survey conducted in 2011 suggests that the use of online news sources is also very significant, with the majority of users visiting news sources every day or almost every day.<sup>5</sup> In addition to primarily online

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<sup>1</sup> See IREX, *Media Sustainability Index (MSI): Bosnia and Herzegovina*. 2013, p. 18. Available at: <http://www.irex.org/resource/bosnia-and-herzegovina-media-sustainability-index-msi>.

<sup>2</sup> The list of broadcasters is available at [www.rak.ba](http://www.rak.ba). The data on the number of TV and radio stations were taken on 30 April 2013.

<sup>3</sup> Data available at [www.vzs.ba](http://www.vzs.ba), accessed on 30th of April 2013.

<sup>4</sup> Users are defined as all individuals between 16 and 74 years of age. There were 551,037 registered internet subscribers in 2012, multiplied by 3.96 for the assessment of the number of users. Internet service provider (ISP) reports are available at: <http://rak.ba/bih/index.php?uid=1272548201>; accessed 13 June 2013.

<sup>5</sup> Out of 100 surveyed online media users, 17% reported they use online sources every day, and 47% almost every day, while only 5% reported they do not use online sources for news. The same survey suggests that users tend to visit online news sources via links on social media - almost one-fifth of 100 respondents visited news sources exclusively through social networks (Husejnefendić, S. 2012, p. 228).

media, the vast majority of traditional media have online editions as well. For example, the web editions of dailies *Dnevni Avaz* and *Nezavisne novine* are among the most visited websites.

Regardless of the high number of online media sources, when it comes to the quality and relevance of the content, the online sphere is not immune to the general trends of commercialization, as well as ethno-national polarization. Although there are no systematic data on audience behavior, some sources indicate that online media are primarily used as means of entertainment, and that entertaining content is far more visited than socially engaged content.<sup>6</sup> Other online platforms, such as blogs, are rarely used for producing and distributing politically engaging content. There have been examples of notable usage of social networks for exchange of information and social mobilization, recently observed in the organization of several days of mass protests in June 2013.<sup>7</sup> In sum, available assessments and reports suggest that the informational value of the majority of online sources is questionable, but that there are several online media outlets that are seen as respectable sources of news and information, the most mentioned being the Centre for Investigative Journalism and online magazines *Zurnal* and *Buka*.<sup>8</sup>

The broadcasting sector is regulated by the Communications Regulatory Agency (CRA), which has the executive powers to implement decisions, including those related to prohibition of hate speech. The print media sector is under a self-regulatory system, which means that implementation depends on the willingness of the print media

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<sup>6</sup> See also Hodžić and Dekić, 2013. Also see IREX's Media Sustainability Index (MSI) reports, available at: <http://www.irex.org/resource/bosnia-and-herzegovina-media-sustainability-index-msi>;

<sup>7</sup> The protests were focused on the failure of the government to set the preconditions for issuing citizen identification numbers. The issue was highly politicized, and the parliament failed to adopt the Law on ID numbers. In the meantime, newborns were deprived of their ID numbers, and therefore of the possibility to get passports and to use all citizen services. The mobilization through social networks began after information about the severe health condition of the three-month-old baby Belmina Ibišević was published. Without an identification number and passport, she could not be transported to the EU for needed medical treatment. The protests began on 5 June; soon after, an interim decision on issuing identification numbers was delivered. The protest continued for several days, assembling more than tens of thousands of people demanding a permanent solution for ID numbers. Finally, Parliamentarians were given a deadline to adopt the law – 1 July, but the Law on ID had not adopted by mid-July 2013 when this report was written, and the protest did not continue. For more on citizen engagement through online platforms see also Hodžić, 2013 pp 25-26, and Džihana et al, Open Society Foundations: 2012, p. 44-47. Also see Jahić, 2013, article available at: <http://www.media.ba/bs/magazin-mreze-i-web/social-media-day-sarajevo-2013>;

<sup>8</sup> See for example Džihana et al, 2012; Hodžić, 2013; Pelizzer, 2008.

management to comply with complaints and decisions of the Press Council on violations of journalistic norms. Both bodies have in recent years made efforts to expand their jurisdiction to include some online media content. The Press Council has expanded the implementation of the Press Code to online media outlets and online editions of print media. The Press Code was transformed into the Code for Press and Online Media in 2011, and four online media outlets have recently become members of the Press Council, showing a willingness to engage in the self-regulatory system. CRA has compiled a list of online television services since late 2012, with the aim of including these services into the CRA's regulatory mechanisms in the future.

## II. Regulation of hate speech

### 1. The general legal framework

Although hate speech is not addressed explicitly in B&H's state or entity constitutions, the direct implementation of international human rights standards and freedoms is embedded, including the protection from racism and discrimination, thus providing a solid constitutional basis for the development of a legislative framework concerning hate speech. A step forward in this sense was made in 2010 when the Criminal Code of B&H<sup>9</sup> was amended with stipulations on crime termed as incitement of national, racial and religious hatred. Under this stipulation, the act of incitement is done if a person: "*publicly incites or inflames national, racial or religious hatred, discord or hostility among the constituent peoples and others who live in B&H*" (Article 145a), which in principle include incitement through hate speech. Criminal Codes on other administrative levels – Federation of B&H, Republika Srpska and Brčko District contain similar stipulations,<sup>10</sup> but the wording in the Criminal Code of Republika Srpska (RS) additionally includes an act done by a person who: "*spreads the ideas of superiority of one race or nation over another*" (Article 390a). The Criminal Code of B&H stipulates a sentence of three months to three years, or between one and 10 years in cases where the offence was done through abuse of office or authority. The

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<sup>9</sup> Official Gazette of Bosnia and Herzegovina, No 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07 and 8/10.

<sup>10</sup> Criminal Code FBiH article 163, Criminal Code BD article 160 and Criminal Code RS article 390.

sentence varies according to the administrative level<sup>11</sup> and is significantly milder in the Criminal Code of Republika Srpska, where a sentence of no longer than two years is stipulated, unless in aggravated incitement (“committed by coercion, molestation, jeopardising the safety of any person, exposing national, ethnic, or religious symbols to derision, damaging other people’s belongings, desecrating monuments or graves” – between one and five years), or abuse of authority (one to eight years).

The problem with this legislation is that “incitement or inflammation of hatred, discord or hostility” includes several overly general terms that do not explicitly incorporate the notion of hate speech, allowing for ambiguous interpretation and application. The wording of the code has been previously contested for failing to give more precise definitions on forms of speech that are prohibited and for failing to give grounds for common judicial interpretation of terms such as “incitement”, “inflammation”, “hatred”, “discord” and “hostility”.<sup>12</sup> The wording does not reflect the definition given in the Council of Europe Recommendation No. R (97) 20, which includes “all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin” (Appendix to Recommendation No. R (97) 20, Council of Europe, 1997). Based on its experiences with monitoring hate crime cases, the OSCE Mission in B&H states: “Police and prosecutors are not fully aware of how to identify the element of hatred in these provisions, meaning that many incidents reported do not actually progress beyond the initial investigation stage” (Written reply 23 July 2013). The OSCE mission further notes that practitioners still focus on proving subjective feeling of hate towards the victim, rather than demonstrating biased motivation related to the protected characteristic of the victim. Judicial practice also seems to be focused more on the “intent” of the perpetrator, which finally “often results in a dismissal of cases brought before the prosecutors’ offices by the police, despite the existence of the objective elements of the crime” (Ibid).

As a polarized society with a recent history of war, B&H faces the additional problem of having criminal codes that do not address racist

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<sup>11</sup> In the FBiH, if the offense is aggravated i.e. “employing duress and torture, jeopardizing the safety of any person, exposing national, ethnic, or religious symbols to derision, damaging other peoples belongings, desecrating monuments or graves” (Article 163, paragraph 2) will be punished by a sentence between one and eight years. The sentence for the act perpetuated by the abuse of an authority is the same as in CC BiH – 1-10 years (article 163, paragraph 3).

<sup>12</sup> Written reply from OSCE Mission in B&H; See also OSCE, 2012.

insults, distribution of racist material, or the denial or justifying of genocide, crimes against humanity and war crimes. In addition, some difficulty in the implementation of the criminal code stipulations is caused with the overlapping jurisdiction of state and entity levels over proceedings related to the crimes of incitement of hatred.

The criminal codes also do not deal particularly with hate speech expressed through the internet. B&H ratified the Additional Protocol to the Convention on Cybercrime in 2006, by which the state is obliged to criminalize acts of racist and xenophobic nature performed through computer systems. Although laws have not been fully developed in this area, there have been some examples of law enforcement against such crimes over the past few years. For example, the police of the Brčko District have confiscated the hardware and software used for “incitement of hatred” through the internet, and as confirmed by the OSCE Mission to B&H, “the perpetrator was brought to the court under the ‘Incitement to Hatred’ provision (Article 160(1) of the BD CC) and sentenced, in a final and binding verdict, to a one year suspended sentence, with a three year probationary period in November 2012”.<sup>13</sup> Also, as Ljiljana Zurovac, director of the Press Council, reports (in an interview in June 2013), the B&H Prosecution Office is currently investigating a case of problematic speech transmitted through computer systems. Such examples suggest that it is possible to process cases of hate crimes under the existing laws, but that the consistency of usage and the way the legal provisions are used varies and depends on the particular interpretation made by police officers, prosecutors and court officials. According to the OSCE mission (2012, p. 31), past court cases indicate that the provision on “incitement of hatred” is not consistently interpreted and applied, and it is not used consistently in similar cases. There have been appeals for amendments of the wording pertaining to incitement of hatred.<sup>14</sup> In addition, the OSCE Mission in Bosnia and Herzegovina stresses that a more robust approach in fighting hate crimes, including hate speech, is hindered by the fact that there is no systemized data collection on these cases.<sup>15</sup>

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<sup>13</sup> The contested content was published on the website [www.bosnahistorija.com](http://www.bosnahistorija.com); the researches did not receive information on how the case was resolved from the police office, but instead have received this information from the OSCE Mission office, through a written reply on 23 June 2013.

<sup>14</sup> See for example a note by the Commissioner for Human Rights of the Council of Europe, Thomas Hammarberg, 2011. Available at: <https://wcd.coe.int/ViewDoc.jsp?id=1766837>;

<sup>15</sup> It is important to note that the OSCE Mission is planning to launch a ‘Hate Monitor’ soon, which will regularly map hate incidents and responses across B&H, within a more recent non-judicial instrument to combat hate speech – ‘Local Coalitions against Hate’, established in 2012 and 2013 under the OSCE Mission’s project Preventing and Combating Hate Crimes (written reply, 23 July 2013).

In addition to the Criminal Code, there are other laws allowing for the prosecution of hate speech within the civil law system, such as the Law on Protection Against Discrimination,<sup>16</sup> which includes protection against “any kind of promotion of national, racial or religious hatred” (Article 4).<sup>17</sup> However, as the OSCE mission stated in the written reply: “given that the jurisprudence in these cases is still not developed, it is very difficult to assess, at this stage, the effectiveness of such legislation and whether they should undergo certain legislative changes” (23 July 2013).

## 2. Media specific regulations

The Criminal Code of FBiH (Article 363/2) and the Criminal Code of the Brčko District (Article 357/2) include stipulations concerning hate speech in broadcasting media, but not explicitly addressing hate speech in other media sectors:

A person in serious violation of the standards of the code of professional conduct of media and journalists, using inciting language or language of hate, or language that obviously calls for or instigates violence, national or ethnical clashes and thereby induces jeopardy to public peace and order, shall be fined or sentenced to prison up to three years.

Hate speech is additionally addressed within the regulatory mechanism in the media sector. The regulation of hate speech in the broadcasting sector is based on the Code on Audio-Visual and Radio Media Services, which forbids the broadcasting of content “involving any kind of discrimination and prejudices...” (Article 3, paragraph 3), and under Article 4 forbids incitement of hatred, violence or discrimination.<sup>18</sup> The norms related to hate speech are

<sup>16</sup> Official Gazette of BiH, No 59/09

<sup>17</sup> For more on relevant laws in this regard, see OSCE mission report, 2012. *Tackling Hate Crimes: An analysis of bias motivated incidents in Bosnia and Herzegovina*, with recommendations. pp. 24-25.

<sup>18</sup> The code stipulates the following: “(1) Audiovisual and radio media services will not humiliate, frighten or encourage violence or discrimination against individuals or groups based on gender, race, ethnic affiliation, nationality, faith or persuasion, invalidity, special needs, age, sexual orientation, social origin or any other circumstances, with the aim or consequence of disabling or endangering recognition, enjoyment or fulfillment of the rights and freedoms of any person, on equal basis (2) Audiovisual and radio media services will not create clear and immediate risk for incitement of ethnic or religious hatred in Bosnia and Herzegovina, or which can be interpreted by the audience as incitement to violence, disorder or unrest, or which could incite or distend criminal acts”. The code is available at: <http://www.rak.ba/bih/index.php?uid=1269867979>; In paragraph 3, it states: “(3) exception for paragraph (1) and (2) of this article are...services...which are a part of scientific, authorship or documentary work and/or which present part of objective journalistic reporting and are published without the intent to distend acts referred in the paragraph (1) and (2) of this article, or with the intent to critically review such acts”.

implemented by the Communications Regulatory Agency (CRA), through executive measures including warnings, fines and suspensions against broadcasters that violate these norms.<sup>19</sup> CRA acts primarily upon complaints of citizens, or, in some capacities, *ex officio*.

### 3. Media self-regulatory framework

The Press Council implements a self-regulatory system for print media and, in recent years, for online media as well. The wording of the Code for Print and Online Media includes a prohibition of hate speech:

Journalists shall at all times be aware of the danger that arises when media, through hate speech, encourage discrimination and intolerance.

Mindful of this danger, journalists shall do their utmost not to incite and/or inflame hatred and/or inequality based on ethnicity, nationality, race, religion, gender, sexual orientation, physical disability or mental state.

Journalists shall under no circumstances incite criminal acts or violence. (Article 3)

In addition to the hate speech provision, clauses that promote equality and condemn discrimination are also relevant in the context of hate speech, stating that journalists: “must avoid prejudicial or insulting references to a person’s ethnic group, nationality, race, religion, gender, sexual orientation, physical disability or mental state”, unless this is directly relevant to the occurrences (Article 4 - Discrimination). Journalists must also “avoid direct or indirect comments which might place individuals in an unequal position or discriminate them based on sex, gender, sexual identity, gender identity, gender expression and/or sexual orientation” (Article 4a - Gender Equality and Respect of Individuality).

The Press Council reacts to complaints concerning hate speech, trying to mediate and negotiate the removal of the contested content. If this is not achieved, the Press Council’s Complaints Commission delivers a decision. If it is concluded that the content violates the Code for Print and Online Media, the removal of the content is requested and/or the publishing of a disclaimer or apology, which ultimately depends on the willingness of the media outlets in question to implement the decisions

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<sup>19</sup> One recent examples of a violation of the Code on Audio-Visual and Radio Media Services, article 4 on hate speech, was the direct transmission of SMS messages of viewers that involved hate speech against homosexuals. The fine for TV Pink for this case was around 2,045 Euros. Another example was a fine against a radio station that was reporting on the football riots in Široki Brijeg in 2009. CRA concluded that the program included incitement to violence, disorder and unrest based on ethnic identities.

and thus demonstrate their public responsibility and commitment to the self-regulatory system. The Press Council does not have the executive power to penalize hate speech.

### III. Extent and nature of hate speech in online media

The importance of regulating hate speech in media is obvious if we consider the level of presence and possible consequences of hate speech in the B&H society. The EIRC report (2010) suggests that inflammatory language and hate speech are on the rise in media content. As pointed out in the report, media are “reported frequently to rely without criticism or to amplify intolerant discourse employed by politicians, to present news in an ethnically biased manner, or to disclose the ethnic origins of suspects regardless of whether these are relevant to the story” (Ibid, p. 24).

However, the data on regulatory proceedings by the CRA for hate speech indicate that hate speech has been declining, at least as far as the broadcasting sector is concerned. The CRA issued 18 decisions pertaining to hate speech in television and radio programs in the period between 1998 and 2001, while only 15 such decisions were issued in the much longer period between 2002 and 2012. In 2012, none of the complaints filed to CRA concerned hate speech.<sup>20</sup> This is likely an indicator that the regulatory system is now more efficient in tackling hate speech in the broadcasting sector. Helena Mandić,<sup>21</sup> from the Communications Regulatory Agency, believes that these trends are a marker of the professionalization of the media during the previous decade.

Some sources additionally suggest that the presence of hate speech in media in general is low. Recent monitoring of hate speech in the content of print, online and TV media outlets (Association BH journalists, 2013) showed that among a total of 46,811 media items (29,247 articles in print media, 15,512 online articles and 2,052 TV shows) some form of hate speech was registered in 1.036% of items. This is seen as an encouraging indicator that hate speech in media content is declining. Still, the existence of 485 items found to include hate speech should not be disregarded, as it could contribute to the perpetuation of intolerance towards certain social groups. Moreover, although hate speech is rarely registered in broadcast

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<sup>20</sup> Helena Mandić, roundtable on hate speech, Press Council, 2013, recordings available at: <http://edukacija.vzs.ba/index.php/konferencije/pravosudje-i-mediji-okrugli-sto-niste-nevidljivi-govor-mrznje-na-web-portalima>

<sup>21</sup> Ibid.



media content, online media are, in contrast, becoming the main platforms for the transmission of hate speech. Against the backdrop of such trends, the Press Council in B&H has made efforts to include online media in the self-regulatory system. Since 2011 it has begun tackling inadmissible speech in online content, on the basis of standards defined in the Code for Print and Online Media.

When it comes to the number of complaints the Press Council receives, in 2013, 197 complaints were filed overall (concerning online and print media), out of which 68 concerned hate speech.<sup>22</sup> In 2012, out of a total of 199 received complaints, 58 concerned hate speech, the majority of which were related to online media and primarily to user comments.<sup>23</sup> In addition, the above-mentioned monitoring (BH journalists, 2013) shows that in most cases the sources of hate speech were not the journalists themselves (although some hate speech was recorded in the journalistic form of commentaries) but usually other social actors. The authors of the same report also identify problematic practices when journalists failed to react and distance themselves or to criticize statements involving hate speech. Furthermore, it is important to note that the registered examples most often included “abetment, discrimination and offensive writing”, rather than direct calls to violence against certain groups or individuals (ibid, p 14), and were most frequently present in print media content rather than other types of media. The most frequently registered were: “examples of unprofessional reporting, as well as examples of labeling certain political actors, political opponents, certain groups (LGBT) etc. (ibid, p. 13).

When it comes to user-generated content, the situation seems to become more sinister, although systematic research on hate speech in user-generated content in Bosnia and Herzegovina is unavailable. This paper will not provide data on the presence of hate speech in user-generated content, but will instead, through analysis of few symptomatic examples in the next subsection, indicate the major target groups and the mechanism of the denunciation of other identities and social groups.

It is important to note that Bosnia and Herzegovina is still heavily burdened with its history of conflict, and all spheres of social life are polarized along ethno-national lines. The impact of the past includes abundant nationalistic and discriminatory rhetoric that is still pervasive in public communication. Of particular concern is the fact that public figures not only fail to demand that such practices be abandoned, but are themselves

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<sup>22</sup> This number is approximate since some of the complaints were not clearly categorised. The list of cases is available at: [http://english.vzs.ba/index.php?option=com\\_content&view=category&id=22&Itemid=23&lang=en](http://english.vzs.ba/index.php?option=com_content&view=category&id=22&Itemid=23&lang=en)

<sup>23</sup> Interview with Ljiljana Zurovac, director of Press Council, 7 Jun 2013, Sarajevo.

major parties in the dissemination of messages that are discriminatory and can incite intolerance. For example, the ECRI report for 2010 (published in 2011, p.23) includes concerns over the continuation of nationalistic rhetoric by political leaders, stressing that "...stigmatising other constituent peoples and blaming the latter for any problems in realising these (ethnic) rights and interests appears to have grown". Furthermore, it is said that political leaders have, for example, "publicly denied crimes against humanity that have been recognised by the International Tribunal for the former Yugoslavia, planned to visit convicted war criminals in neighbouring countries, erected prominent symbols of one constituent people in places they are bound to offend persons belonging to other groups, and declared they would not accept being tried by a judge belonging to a different constituent people from their own." (Ibid) For these reasons, as the OSCE Mission of B&H concludes: "the political climate is conducive to the perpetration of hate speech and associated crimes" (written reply, 23 July 2013).

## **1. Hate speech in media content related to ethno-national identities**

**H**ate speech and other forms of language of intolerance and discrimination are of special concern for B&H society, since the media's transmission and reproduction of nationalistic rhetoric and hate speech against certain ethno-national groups can in return have serious consequences in terms of strengthening the ethnic divisions and deepening the enmity between ethno-national groups.

When the "other" groups and identities are constructed in media messages, complex meanings and implications can be evoked through different strategies, with the effect of denouncing the "Other". For example, media messages can include metonymic signifiers of ethno-national groups instead of direct naming of the group as such.<sup>24</sup> Or, as we will see in the examples used in this report, evoking certain historic events can discredit the "Other".

Examples of hate speech can easily be found in user-generated content. Hate speech and discriminatory speech are most often based on ethno-

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<sup>24</sup> For example, as Cjetičanin et al (2010) said in their analysis of the media representation of the case of violent confrontation between fans of two football teams: "Citizens of Široki Brijeg, fans of the football club with the same name, police and political actors in the canton, suspects in the killing, as well as commentators from the website... [www.sirokibrig.com](http://www.sirokibrig.com), appear as metonymic signifier for the Croatian ethno-national group, just the same as the citizens of Sarajevo and related political figures, sports officials, players and fans of FC Sarajevo...function as the bearers of Bosniak national identity."

national and religious identities.<sup>25</sup> As Cvjetičanin et al. stated, hate speech is defined especially by the “war inheritance and dominance of nationalistic and patriarchal matrixes in the public space... (which) maintain, even justify hate speech against everything and everyone considered the other and different in certain contexts” (2010, p. 1).

Hate speech is not limited only to user-generated content. Examples of contested speech and elements of hate speech can be found in journalistic and edited content as well. Sensationalism aimed at attracting audience share is also visible in the common practice of taking extracts of statements that include hate speech to form the title of an article (BH journalists, 2013, p.15).

Some examples of hate speech will be briefly analysed, including those written by journalists of media outlets as well as those generated by users.

A recent example of user comments that designate ethno-national intolerance is related to an article on the anniversary of the Dobrovoljačka case<sup>26</sup> published by one of the most visited online media sites in Bosnia and Herzegovina.<sup>27</sup> The article was a report on the visit of a delegation from Republika Srpska to Dobrovoljačka Street in Sarajevo, where soldiers of Yugoslavian Army JNA were killed in 1992. This is one of the many war incidents over which representatives of different ethnic groups still offer differing accounts and different data on the number of the people killed.<sup>28</sup> Hate speech in user comments was abundant and is indicative of imagery and mechanisms used when discussing past conflict and ethnic relations in general. One of the symptomatic comments was:

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<sup>25</sup> As indicated for example by Ljiljana Zurovac, director of the Press Council, interview conducted on 7 July 2013.

<sup>26</sup> The case of Dobrovoljačka refers to the killing of Yugoslavian People’s Army (JNA) soldiers on Sarajevo’s Dobrovoljačka Street on May 3, 1992, during an attack by troops of the Territorial Defence, the Patriot League, and the Green Berets against a convoy of vehicles carrying officers of the Second Military District Command from the Bistrik barracks. There was an agreement to exchange the Commander of the Second Military District, Milutin Kukanjac, who was in the Bistrik barracks at the time for the President of the Republic of B&H Alija Izetbegović, captured by JNA day earlier at the Sarajevo airport. Despite the agreement for peaceful retreat of JNA from the territory of B&H, an attack occurred and the judicial system in B&H has still failed to process the case and sentence the responsible individuals. However, the number of the killed soldiers remains a matter of controversy.

<sup>27</sup> The comments have so far not been removed, although more than two months passed since they were posted: <http://www.klix.ba/vijesti/bih/dobrovoljacka-ulica-pod-policijskom-opsadom-pauk-sluzba-podize-automobile/130503015> (accessed 16 July 2013)

<sup>28</sup> The events were interpreted completely differently on different sides in the conflict. Even the number of killed soldiers remains a matter of controversy. Some suggest there were seven or eight soldiers killed, while others suggest there were as many as 42 soldiers killed.

“... it should be forbidden for Chetniks<sup>29</sup> to gather in Sarajevo... we should build a monument for the warriors of the B&H army. End of story. These were war targets, and they were defeated ... Divjak<sup>30</sup> was released ... court released him on all charges. Chetniks ... had been defeated the most on the battleground by the B&H Army”. Or in a separate comment “...We in Bosanska Kraina treat Chetniks completely differently, only harshly and insolently” (user “daniel.valesques.86”, 3 May 2013)

By using the term “*Chetnik*” the disputed past of Chetnik organizations and their nationalistic ideology is evoked. The term is clearly used to offend and to discredit one group of people based on their ethnic origin. The authors of the comments tend to disregard the fact that lives of the members of the “other” community were in fact lost. Instead only the “big truths” and opposites: Us/victims/rightful as opposed to them/aggressors/wrongful are emphasised. This pattern, which Massey (2007, in Kamiskaya, 2008, p. 5) refers to as “mechanisms of stratification”, is a fundamental principle of hate speech. The positioning of groups and labelling them as the inferior “other” is a way of producing their stratification, with the effect of deeming “others” as distant, different, and despised. In the extreme form, such patterns lead to dehumanization of the other, which as a final point justifies the ill treatment of these groups. As Brewer argues (1999, pp. 432-433), in cases of larger groups such as ethnic groups, the structures that determine intergroup loyalty take over the character of moral legitimization, where moral superiority of one’s own group is the basis for legitimizing dominance over, submission of, and even violence over the perceived enemy.

Another indicative example of comments on the same article involves an open invitation to violence:

“Freedom or death, there is no joint life in our country ... and its republics: Republika Srpska, Herceg Bosnia ... and the occupied

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<sup>29</sup> The author here refers to all Serbs attending the anniversary event, but Chetniks were in fact Serb nationalistic and paramilitary organizations that originated in the first half of the 20th century, especially infamous during the Second World War. Some individuals use the term for self-identification, but it is used also by an outside-group with the effect of discrediting and denouncing Serbs as an ethno-national group. For more on Chetnik organizations, see: <http://en.wikipedia.org/wiki/Chetniks>

<sup>30</sup> Jovan Divjak, a former officer of the JNA, who resisted the JNA since the beginning of the war in 1992, and later joined the Army of BiH. See more on his view of the Dobrovoljačka case at: [http://www.slobodnaevropa.org/content/svjedoci\\_rata\\_divjak/1841868.html](http://www.slobodnaevropa.org/content/svjedoci_rata_divjak/1841868.html)

24% Muslim enclave between Muslim Sarajevo and Zenica;<sup>31</sup> it is time for the remains of the Turkish occupation – the Muslims who turned Turks to be expelled like illegal Muslim immigrants ... this country was betrayed by Muslims ... it is time for another uprising against Dahijas;<sup>32</sup> we can no longer be with those turned Turks.” (user strahinja.banović1042)

In these statements, the sentiments of despise towards, and imagery related to, the historically dominant and despised Other – the Ottoman Turkish invaders – are transferred to the current “Other”, i.e. the Bosnia ethnic group. This mechanism is used with the effect of claiming the rights of the “Us” group over the state territory, and depriving the “other” of the same rights by labelling them as “immigrants” and “betrayers”.

This is one of many similar cases of war-related events, war crimes and court proceedings, which have appeared to provoke inappropriate user comments.

The most notable examples of hate speech in the editorial content of media websites, although relatively rare, are also primarily related to ethno-national identities. For example, an article published on the website of the newspaper *Glas Srpske* on “mixed” marriages, i.e. interethnic marriages, which was headlined “Mixed meat”, incited much public condemnation. To cite one of the most problematic parts of the article: “My humble opinion is that the marriages that remain mixed, in which it is not known who is man and who is woman, or which God should the children pray to ... neither Catholic, nor Orthodox Easter, nor Bajram are celebrated – are just a misfortune for those who are in love and for their children”. The Press Council received three complaints about this article, and concluded that the article included violations of the general provision on incitement to intolerance, discrimination and editorial accountability. The decision of the Press Council<sup>33</sup> quotes both the article and the Code for Print and Online Media. However the Press Council did not offer an explanation of the criteria used for establishing how the statement included hate speech as such. Although

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<sup>31</sup> In fact, Bosnia and Herzegovina consists of two entities: the Federation of B&H, with a majority population of Bosniaks and Croats, and the Republika Srpska, with a majority Serb population. Additionally, it includes the Brčko District, as a separate administrative unit. For more, see: [http://en.wikipedia.org/wiki/Bosnia\\_and\\_Herzegovina#Government\\_and\\_politics](http://en.wikipedia.org/wiki/Bosnia_and_Herzegovina#Government_and_politics); Here, the author is denying the Bosniaks (mostly Muslim population) its current status and its rights to live in B&H.

<sup>32</sup> Turkish Governors. See more at: <http://hr.wikipedia.org/wiki/Dahije>;

<sup>33</sup> Available at: [http://www.vzs.ba/index.php?option=com\\_content&view=article&id=1393:pedeset-i-prva-sjednica-albene-komisije-vijea-za-tampu-u-bih-sarajevo-29112012&catid=15:vijesti&Itemid=18](http://www.vzs.ba/index.php?option=com_content&view=article&id=1393:pedeset-i-prva-sjednica-albene-komisije-vijea-za-tampu-u-bih-sarajevo-29112012&catid=15:vijesti&Itemid=18)

the article includes problematic and highly insensitive statements, one could argue that more elaborated analysis of the contested wording could enable insight into expert opinion and could be a tool for raising awareness and education of the general public on the violation of journalistic norms, including provisions on hate speech.<sup>34</sup>

There was also a case related to the documentary “Neđo from Ljubuški”. After it was screened in Ljubuški, a town with a majority Croat population, certain online media reporting involved hate speech. The movie is about Neđo Galić, a man who saved hundreds of citizens belonging to other national groups from being taken and likely killed in the concentration camps in 1993 in the town Ljubuški.<sup>35</sup> In one of the online articles about the movie the author labels Galić as a traitor of Croat people, using offensive language and attempting to discredit people present at the screening by labelling them as traitors. The author continues by diminishing the importance of Galić’s actions, while glorifying the cause of the Croatian ethnic group: “Screening of the movie ... in the city hall in Ljubuški is an act of spitting on 40,000 of citizens ... who dreamt a Croatian dream and of honouring one man who was spitting on that dream”. What we observe here is a language of intolerance toward a part of one’s own ethno-national group that is represented as traitors, and thus “the other”, which raises issues on whether similar practices can be classified as hate speech as well. Other online articles also included ignoring or even denying the war crimes committed against non-Croat citizens, as well as a direct call for intolerance. In one of the articles published on the same web portal, the author concludes: “...are we going to let the people who obviously hate the Croatian flag ... hold this event ... I hope that authorised officials will ban this gathering ... which criminalises the defence war and exposes lies instead of facts about the defence of this Croatian territory. Ljubuški has been and remains a Croatian town, as well as the town of people ... who wanted to accept this fact”.<sup>36</sup>

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<sup>34</sup> A critique with regard to the wording of the decisions of the Press Council was included in the article available at: <http://banjalukain.com/front/mijesano-meso-i-svinjetina-protjerani-iz-sarajevskih-restorana>

<sup>35</sup> The Press Council received 15 complaints in the middle of 2012, after which they issued a call for all media to respect professional norms, but also to be equally responsible and to remove user comments that include hate speech, incitement, discrimination and threats. Press release available at: [http://www.vzs.ba/index.php?option=com\\_content&view=article&id=1247:saoptenje-albene-komisije-vijea-za-tampu-u-bih-povodom-tekstova-i-komentara-u-vezi-sa-sluajem-gali&catid=200:saoptenja-albene-komisije&Itemid=37](http://www.vzs.ba/index.php?option=com_content&view=article&id=1247:saoptenje-albene-komisije-vijea-za-tampu-u-bih-povodom-tekstova-i-komentara-u-vezi-sa-sluajem-gali&catid=200:saoptenja-albene-komisije&Itemid=37)

<sup>36</sup> Article written by dr. Ante Lauc, [www.ljubuski-online.info](http://www.ljubuski-online.info), titled: What is Neđo Galić for Ljubuški; published 14 July 2012.

## 2. Hate speech in media content related to minorities

With regard to the last case, it is interesting to note that derogatory terms related to certain social groups were also used. The author of the article on Neđo from Ljubuški, thus compared one of the “traitors” with a “bitch”,<sup>37</sup> deeming her less worthy than this despised category of women. Some media outlets with mostly non-Croat audiences reacted against the manager of the portal ljubuski.com, but certain replies, in the attempt to discredit this media manager, employed a similar strategy by using the term “fagot” – a signifier meant to be derogatory for a sexual minority, i.e. the historically despised “Other”.<sup>38</sup> The usage of these terms indicates the interchangeable nature of different symbols and terminology, with the same purpose of denouncing “the Other”.

Similarly, nationalistic and patriarchal discourses that dominate the public space provide the basis for discrediting and discriminating against certain minority groups. Mainly, LGBT identities are represented as a danger for ethno-national identities and the “natural” order. Illustrative examples were seen in media coverage of the Queer Sarajevo Festival in 2008. The intolerance of media towards the LGBT community was predominantly framed in the context of perceived “violation” of religious sentiments and ethno-national identity of Bosniaks, since the festival was organized during the Muslim holy month of Ramadan.<sup>39</sup> In one extreme and rare case, in an online article about homosexuals, the community is discredited in what the author framed as a “scientific” discourse, by using medical, but also a military, terminology. For example, the author refers to the promotion of the rights of the LGBT community as: “silent war for legalization, and then for spreading of homosexuality.”<sup>40</sup> The author claims that the World Health Organization (WHO), influenced by the “homosexual lobby”, has taken the stance that homosexuality is not a disease, and thus,

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<sup>37</sup> “Certainly Martina did not really betray her people, she has always been Bosnian (whatever that is) by her nationality, and my friend called her a bitch last night and thereby insulted my Šarka that gave birth to Rexe’s five puppies.” Jakov Begić, “Shit never sinks, it always floats”, [www.ljubuski-online.info](http://www.ljubuski-online.info).

<sup>38</sup> And more precisely: “fagot in his head, not in his butt”. Daniel Senkić, “Leo Pločkinić, Ustaša that would slaughter Bosniaks?”, [www.dosije.ba](http://www.dosije.ba).

<sup>39</sup> The Queer Festival was meant to have different artistic events related to the LGBT community. It was first held in 2008, but after some of the participants were physically attacked on the first day of the festival, the festival was cancelled. First the magazine *Saff*, and then one of the major newspapers in B&H, *Dnevni Avaz*, included and published discriminatory statements by different social actors. For example, one could read that the festival was “dangerously playing with religious sentiments”, that it was a “gay parade”, “a provocation deliberately organized during Ramadan”, etc. For more, see Cvjetičanin et al, 2010.

<sup>40</sup> The author uses the false term “homosexuality” instead of “homosexuality”.

he claims WHO: “eased the spreading of this deviant sexual intercourse, and thus the emergence of millions of infected with most of all AIDS, but also with syphilis, gonorrhoea and many malignant tumors...”. Homosexuals were thus presented as “deviants” and the society as being in danger of the “spreading” of “homosexuality”, as “a learned behaviour”.<sup>41</sup> In general, the LGBT population has been increasingly subjected to discriminatory speech and hate speech in recent years, especially online through user comments and within social networks.<sup>42</sup>

In addition, media representations of the Roma population are generally based on stereotypes. Even though the media rarely include open animosity towards the Roma community, representation of Roma people are dominantly narrow and limited to portrayal as the “problematic” elements of the society, given that, as Hodžić and Dekić indicate (2013, str. 29), they appear in media content on “problematic” and “negative” phenomena. In other words, instead of straightforward hate speech against Roma people, this national minority is in principle excluded from most media content, marginalized and homogeneously represented in negative roles. However, there are still examples of offensive uses of the term “Cigani” (Gypsies, for Roma people) for labelling any groups of people or any behaviour in a derogatory manner. Some examples are using the word “Ciganluk” as a colloquial and offensive term for lack of order and morality, or naming a category of people as “Cigani” as a means to accentuate their negative characteristics.<sup>43</sup>

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<sup>41</sup> Furthermore, homosexuals are represented as a sinister group that is “aggressively lobbying” for what is dangerous for humans, and therefore the author is put into the position of a courageous defender of the wellbeing of the people. Dr. Adem Zalihić, [www.saff.ba](http://www.saff.ba); The Press Council requested the removal of the content, but the editor refused, claiming it was a commentary and all complaints should be addressed to the author of the article. More examples on inappropriate speech are given in the report published by BH novinari 2013, based on media monitoring. Here are some of the cases they mention: Portal buka.com, story on “mix[ed]” marriages in B&H. Diaspora, titled “Blacks are stealing Bosniak daughters” (20.08.2012). Printing of offensive speech in an interview with Bob Dylan, paraphrased from *Rolling Stone* magazine, where Dylan said: “Serbs recognize Croats like the blacks do white racists, or Jews the Nazis” (29.09.2012). Poskok.info, in an article involving a horse insinuated that an accident happened because the horse felt the presence of a Turkish ambassador (poskok.info, 06.08.2012). (Source: BH journalists 2013, p. 16)

<sup>42</sup> See the report on hate speech based on gender identity and sexual orientation, published by the Sarajevo Open Centre. 2013, available at: <http://soc.ba/izvjestaj-o-govoru-mrznje-zasnovanom-na-seksualnoj-orijentaciji-i-rodnom-identitetu-u-bih-slucajevi-iz-2012-i-2013-godine/>

<sup>43</sup> See, for example, the article “Land of the white gypsies”, available at: <http://www.tip.ba/2012/06/15/zemlja-bijelih-cigana/>; In addition, a reaction on a similar use of the term is available at: <http://www.sutra.ba/novost/69626/CIGANLUK-Sejdic-fasistoidni-naslov-portala-Dnevnik.ba>



Similar strategies are used when it comes to women as a category.<sup>44</sup> Moreover, terms that are associated with women have been used in a derogatory manner for any individual or a group. Feminization of the “Other” is a way to offend, express despising sentiments and delegitimize the perspectives, needs and opinions of the “Other”.<sup>45</sup>

In sum, illustrative examples of hate speech in online content are easy to find. Online media users easily come across hate speech on a daily basis. The examples above are reflective of which groups are the main targets of hate speech – other ethno-national groups, Roma as a national minority and the LGBTIQ population. Hate speech is derived from dominant ideologies, but also potentially contributes to the continuance of intolerance and hatred, and therefore needs to be tackled through all appropriate means. The next chapter describes what some media have done in this regard.

#### **IV. Measures taken by media to address online hate speech**

Most online media have rules and regulations for users that include rules about discriminatory speech and hate speech. For example, the most visited online news source, klix.ba, requires users to accept the terms and conditions for user behaviour, which includes terms against offensive and hateful content. Online media are to some extent moderating content and removing problematic statements, but this is not common practice, as media outlets often do not have the capacities to do this on a regular basis. For example, Lana Ramljak, editor-in-chief of radiosarajevo.ba, reports that editors and journalists normally perform the moderation of content on the website on a daily basis. On the other hand, Anamarija Jelonić,<sup>46</sup> editor of one of the most popular websites in Herzegovina (bljesak.info), reports that moderation is done, but that they do not have sufficient capacities for the consistent monitoring of posts. An additional possibility offered is for users to themselves delete content they consider inappropriate, but it is questionable whether this instrument is effective or if it is considerably misused by users. Both websites also block users who produce unacceptable comments. As the editor of bljesak.info reports, the user is also informed that the administrator needs to approve a comment before publishing if it contains any filtered words. Some media include automatic responses to users through their e-mail address about the removal of their comments (as

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<sup>44</sup> See more in Moranjak-Bamburać, Isanović and Jusić, 2006, also see Ross, 2007.

<sup>45</sup> See for example King, 2001, Smith, 2000.

<sup>46</sup> Lana Ramljak and Anamarija Jelonić, written replies, January 2014.

in the case of Radio Sarajevo). The users are required to register with an e-mail address, or to post comments through their Facebook profiles, but it is not uncommon that users provide false information. Some media prevent comments on articles related to particularly sensitive issues, but this is also not a prevalent practice, and there are no universally accepted standards in this regard.

Lana Ramljak said that moderation of radiosarajevo.ba is effective in around 80% of cases, and there is a challenge in asking journalists to take on additional tasks related to comment moderation. An additional reason for inconsistent moderation of user-generated content mentioned by other sources is the fact that problematic comments are likely used to attract a larger audience.<sup>47</sup>

Online media also cooperate with judicial institutions, and as clearly stated on the website klix.ba, the data on the behaviour of users of its forum are collected and the registration data can be used by the entities authorized by law. Ramljak observed that the users of radiosarajevo.ba are discouraged from posting hateful comments if judicial institutions are more involved in the process: "We believe that the policy of zero tolerance – reporting to authorized institutions in cases of threats and/or serious hateful tones- is the most efficient, because such users are registering less to comment."

Another way of addressing online hate speech is through the media sector's self-regulatory system. Namely, online media outlets are starting to become members of the Press Council and to implement its decisions. There are currently four online media outlets that are members of the Press Council, and several online media whose membership is now being considered.<sup>48</sup> The complaints that the Press Council's Complaints Commission considers can, however, be related not only to members, but to the content of any online news website, or website with journalistically-edited content. According to Ljiljana Zurovac, director of the Press Council, the editors are not responsible for the inadmissible speech within the user comments at the time the comment is posted, but he/she is responsible for removing the content involving inadmissible speech.<sup>49</sup> The Press Council can ask an online media

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<sup>47</sup> Such tendencies were identified by the representatives of online media from Sarajevo, Mostar and Tuzla, who participated in a meeting held in Mediacentar Sarajevo, in November 2012.

<sup>48</sup> Ljiljana Zurovac reports there are strict rules on who can become a member of the Press Council. Those online media that are members are primarily registered media outlets that are subjected to the tax structure for media businesses in B&H (interview, 7 July 2013).

<sup>49</sup> Ibid; Zurovac elaborates that if the editor refuses to act upon the intervention of the Press Council and to remove the contested comment, he/she becomes the party responsible for dissemination of inadmissible speech.

to remove comments including hate speech, and to ban the user from further posting comments. The self-regulatory mechanism has been effective in many cases, resulting in contested comments being removed after mediation, or after the decision of the Complaint Commission of the Press Council.<sup>50</sup> In 2012, the Press Council initiated a project titled “You are not invisible”, aimed at identifying individuals that are inciting and spreading hate speech through the internet, by investigating the identities behind the IP addresses in cooperation with the police and judicial authorities and possibly bringing charges against them.

Sarajevo Open Centre reports that in 2013 they were informed by the Ministry of Internal Affairs that their complaint related to homophobic comments of users on the website *Muški portal* was forwarded to the cantonal Prosecutors office. This is on one hand seen as a positive step forward, but there are also some reservations with regard to judicial proceedings of hate speech. Enes Osmančević, a professor at the University of Tuzla, generally sees a challenge in the lack of police personnel qualified to conduct these investigations.<sup>51</sup> Furthermore, such measures are also seen as a tool that could be misused to restrict freedom of speech. As Lejla Turčilo, a lecturer at the Faculty of Political Sciences in Sarajevo, put it: “In principle, it is a repressive method from which one can always ‘read’ aspiration of state structures to control not only damage...(of) hate speech, but also to control and violate the right for critical thinking in general” (written reply 15 July 2013). Still, this is not to say that measures should not be used for identification and employment of judicial remedies for extremist groups and individuals who use online platforms for dissemination of extremist ideas and hate speech.<sup>52</sup> However, the use of potential judicial instruments is often practically impossible, since the websites of extremist groups or individuals are mostly not registered, and the servers are mostly located abroad.<sup>53</sup> In addition,

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<sup>50</sup> For example, the editors of the website [www.klix.ba](http://www.klix.ba) removed a user’s comment and banned the user from further posts, after the intervention of Press Council. The comment included extreme language and a direct call for violence against actor Feđa Štukan and activist Darko Brkan, based on their ethno-national identity (Document of Press Council 267-02/13, available in the research archive).

<sup>51</sup> See the video recordings from the roundtable organized in 2013 by the Press Council, available at: <http://edukacija.vzs.ba/index.php/konferencije/pravosudje-i-mediji-okrugli-sto-niste-nevidljivi-govor-mrznje-na-web-portalima>

<sup>52</sup> For more on the connection and organization of extremist groups beyond state borders and the globalization of hatred, see Perry and Olsson, 2009.

<sup>53</sup> In the case of an extremely aggressive YouTube video clip, which simulated chopping off the head of one of the organizers of the Queer Sarajevo Festival in 2008, the police discovered that the clip was uploaded in Berlin (by the same user who hacked and crashed the mailing list and forum of the queer community in B&H). The Berlin police were notified, but there was no further information on the case (Cvjetičanin et al. 2010, p. 14).

the criteria for establishing hate speech in judicial practice in Bosnia and Herzegovina is only starting to develop. The international civil society organization ARTICLE 19 proposes six criteria that should be applied on a case-by-case basis when considering if certain speech constitutes a criminal act of incitement to hatred. These criteria involve: context of the expression, speaker/proponent of expression, intent to incite to discrimination, hostility or violence, content of the expression, extent and magnitude of the expression (including its public nature, its audience and means of dissemination), and likelihood of the advocated action occurring, including its imminence (ARTICLE 19, 27). In a recent analysis of the rulings in the judiciary in BiH, the authors concluded that these criteria are “yet to find their place in BiH practice” (Lučić-Čatić and Bajrić, 29).

In sum, although judicial instruments are considered as important to effectively deal with hate speech in Bosnia and Herzegovina, members of the professional community, including the director of the Press Council, believe that media should be primarily governed by ethics and that self-regulation, rather than statutory regulations, should be the major mechanism to combat hate speech in online media.<sup>54</sup> Self-regulatory mechanisms have shown to be effective at times, but their reach is limited. Some online media are not willing to behave in accordance with ethical norms and the principles of self-regulation. In some cases the information on the persons behind some online media are not available, which also hinders the work of the Press Council. In addition, blogs, forums and social media are for the time being not included in this self-regulatory system. Furthermore, given the exponential growth of online content, it can be assumed that the extent of contested speech in the online sphere exceeds the capacities of the Press Council. Therefore, a vast portion of the online media sphere remains out of the reach of self-regulatory mechanisms.

## Recommendations

**H**ate speech is generally hard to define and to prosecute in the courts. In the context of Bosnia and Herzegovina, dealing with hate speech brings considerable specific responsibilities and challenges. There are legal stipulations that implicitly pertain to hate speech, but members of the judicial community have pointed out that the existing stipulations should

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<sup>54</sup> See, for example, a report on a conference organized by the OSCE mission in BiH in March 2013, available at: <http://www.oscebih.org/News.aspx?newsid=311&lang=EN>

be amended.<sup>55</sup> Such stipulations are important since judicial remedy is needed in some cases when extremist individuals and groups employ hate speech, particularly if several criteria for establishing hate speech are met, including the status of the author, the intention, the reach and possible detrimental effects on the victims and on society in general. Nevertheless, given the pervasiveness of hate speech – which is present to some extent in content produced by the online media themselves, but especially in user-generated content – non-judicial mechanisms for tackling hate speech seem to be especially important in order to not only deal with individual hate speech cases, but also to foster debate and improve the socio-political climate and thus render hate speech a rare occurrence rather than a general practice. These mechanisms include self-regulation in the media system strong enough to be morally binding for all reporters, editors, owners and publishers of print and online media.<sup>56</sup> However, since the reach of the self-regulatory mechanisms is limited, social actors beyond the Press Council need to engage and contribute to the promotion of a culture of tolerance and respect for diversity.

Recommendations for different stakeholders include:

**Media and journalists:**

- Employing and fostering consistent practices of distancing from and criticism of hate speech initiated by other social actors. Such an approach would contribute to the quality of the communication process and would promote a critical stance among the general public
- Providing information on hate speech cases to the general public, including those processed by judiciary, regulatory or self-regulatory bodies, or other cases that include hate speech
- Providing the public with information on the instruments and procedures for filing complaints about hate speech
- Providing cross-ethnic perspectives on war-time events where different and disputable interpretations exist
- Ensuring the existence of codes of ethics and guidelines explaining acceptable forms of user-generated content; site administrators should pay particular attention to issues that are likely to trigger

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<sup>55</sup> Kreho, 2013; Cvjetičanin et al. 2010.

<sup>56</sup> The OSCE mission in B&H is, for example, in favour of self-regulation when it comes to internet platforms, since self-regulation is more flexible than state regulation and does not endanger overall freedom of expression, but rather promotes online accountability (written reply 23 July 2013).

ethnically charged debates while balancing free speech and deterring hate speech. Although content moderation should not include excessive limitations of freedom of speech and thus should not undermine the democratic potential of online media, one can argue that disabling comments, removal of comments that involve incitement to intolerance and banning of users who produce contested content involving hate speech is in fact justified, especially in BiH as a post-conflict society.

- Producing journalistic content that substantially deals with hate speech, its causes and consequences; in addition, journalists and media should be involved in broader efforts to address hate speech, for example, through public debates and the promotion of tolerance between different social groups

### **Legislative bodies, judiciary, police officers and educators**

- Harmonizing laws pertaining to hate speech at all administrative levels
- Amending the laws to include all forms of hate speech, as defined in CoE Recommendation No. R (97) 20
- Exchanging experiences between prosecutors and court personnel in processing cases related to hate speech. This also means that positive cases of judicial prosecutions of hate speech should be promoted
- Implementing systematic educational programmes for police officers on issues related to cybercrime and hate speech in general; these programmes would address the lack of common standards in the application of existing provisions on hate speech, as well as a potential lack of expertise with regard to computer systems and possibilities to confront hate crimes expressed through computer systems
- Introducing systematized data collection on hate crimes and hate speech

### **Regulatory and self-regulatory bodies:**

- Publishing detailed analysis on content concerning hate speech in (online) media for which the Complaint Commission of the Press Council considered and made a decision on. Such analysis should include elaborated criteria for a decision on why the content in question is considered to be hate speech. This should be employed whenever possible and especially promoted in the most prominent

cases. It would enable public insight into expert analysis and would therefore have an educational and awareness-raising function. It would further promote the credibility of the Complaints Commission, contribute to public understanding of hate speech and the mechanisms employed against it, and finally contribute to informed public debate on the issue

### **Civil society:**

Nongovernmental organizations, networks, coalitions and initiatives can be key players in the following:

- Fostering debate on the accountability of all social actors, including media, for dissemination of hate speech, both with regard to content produced by media outlets, as well as with regard to user comments published on their websites.
- Implementing educational programmes on hate speech for journalists. Such programmes should strengthen journalists' abilities to recognize and challenge hate speech expressed by public actors, as well as to recognize and avoid letting their own prejudices and stereotypes detract from the quality of the media content they produce.
- Raising awareness among the general public about hate speech, its concepts, manifestations and consequences, as well as awareness about the self-regulatory, regulatory and judicial mechanisms for combating hate speech.
- Encouraging citizen engagement in the debate about hate speech, as well as in the use of available mechanisms for countering hate speech.
- Organizing public and expert debates on ways to improve legal provisions in B&H to ensure consistent processing and common judicial interpretations of hate speech, taking into consideration the specificities of the BiH context.
- Monitoring and collecting data on hate speech incidents occurring through online platforms.
- Engaging in civic activism and reactions to specific incidents of hate speech expressed through online platforms.
- Running long-term activities aimed at promoting a democratic culture of tolerance, respect for diversity and critical thinking on media messages.

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# Hate speech in online media in Kosovo

**Arben Hajredinaj**

<p><b>Internet penetration rate:</b> – 84.8% according to the study published by the Kosovo Association of Information and Communication Technology: “Internet Penetration and Usage in Kosovo”</p>
<p><b>Most read online media outlets</b> – no data available, no audience measurements available</p>
<p><b>Laws pertaining to hate speech:</b> - Criminal Code of the Republic of Kosovo, Article 147 - Inciting national, racial, religious or ethnic hatred, discord or intolerance</p>
<p><b>Media specifics provisions on hate speech:</b> Independent Media Commission’s Code of Conduct for Audiovisual Media, Article 10 – Use of language, points 10.1 to 10.4; Article 11 - Prohibition of incitement to violence, points 11.1 and 11.2 and its subpoints. Law on Radio Television of Kosovo - Article 18 - Editorial policy and program content, point 4</p>
<p><b>Code of ethics-</b> Provision related to hate speech. Press Code for Kosovo, Article III. Incitement and Hate Speech, points 1, 2, 3</p>
<p><b>Code of ethics - The provision related to user-generated content (how to handle them/what kind of moderation, etc.).</b> Guidelines for online journalism of the Press Council of Kosovo: Point 2: The editorial board should not publish articles or comments that incite or cause direct discrimination on the grounds of gender, age, marital status, language, physical or mental incapacity, sexual orientation, national origin, opinion or political affiliation, religion or faith, ethnic or social origin, race, property, birth or any other status.</p>
<p><b>Name of the self-regulatory body supervising the code of ethics:</b> Press Council of Kosovo, which is open to online editions of its member print media, news agencies, news portals and magazines</p>
<p><b>Examples of media outlets that have established and published the terms and conditions which they apply in accepting and publishing online comment;</b> For example, the newspaper <i>Jeta në Kosovë</i>’s disclaimer reads: “All writings and comments that contain discriminatory language, degrading, inciting hatred or criminal actions are prohibited. The newspaper <i>Jeta në Kosovë</i> reserves the right to disclose or not the articles and comments. The content of the comments is in no way to be considered to reflect the views of the editorial board.”</p>

## I. Media landscape and importance of online media

Kosovo has a vibrant history of the development of its media landscape. In the last decade, it has become host to over one hundred audio and visual electronic media as well as a dozen print media and an unknown number of news portals on the internet. One-third of Kosovo's population has access to social media such as Facebook and other social networks.<sup>1</sup>

The situation of the media landscape in Kosovo has been marked by significant changes over the last five years. The fact that the majority of public advertisements by government institutions were published in only certain dailies provoked a reaction by the media community.<sup>2</sup> Consequently, through a decision, the Government of Kosovo banned public advertisements<sup>3</sup> in the daily press in 2011.<sup>4</sup> Reportedly, this decision affected the income of newspapers. Out of nine daily newspapers in 2011, two daily newspapers have closed down in less than two years. In March 2013 one of the daily newspapers, *Gazeta Express*, continued to publish only its online edition.<sup>5</sup> No dailies have been published in the languages of minority communities.

The Assembly of Kosovo approved the new law for Kosovo's only public service broadcaster (RTK) in April 2012. The law's approval has been subject to criticism mainly because it did not address certain problems related to ownership, the new channel in Serbian and the broadcaster's financing, which is taken from the Kosovo budget. RTK's second television channel in Serbian is expected to become operational by mid-2013.<sup>6</sup> Broadcast media have presented their projections to switch to digital broadcasting, and the broadcast media regulator, the Independent Media Commission, which has operated under a new law since April 2012, must present a media digitalization strategy.<sup>7</sup>

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<sup>1</sup> "Internet Penetration and Usage in Kosovo" [http://www.stikk-ks.org/uploads/downloads/STIKK\\_raport\\_eng\\_2013\\_web\\_08.pdf](http://www.stikk-ks.org/uploads/downloads/STIKK_raport_eng_2013_web_08.pdf)

<sup>2</sup> "Circulation and Politicization of the Print Media in Kosovo" [http://www.kipred.org/advCms/documents/51846\\_Circulation\\_and\\_Politicization\\_of\\_the\\_Print.pdf](http://www.kipred.org/advCms/documents/51846_Circulation_and_Politicization_of_the_Print.pdf)

<sup>3</sup> "Hard times for newspapers" ("Kohe te veshtira per gazetat") <http://www.gazetaexpress.com/?cid=1,15,108263>

<sup>4</sup> "Government removes publications in media, but does not remove VAT" ("Qeveria heq publikimet në media, por nuk ua heq TVSH-në") <http://www.albinfo.ch/sq/content/qeveria-heq-publikimet-n-media-por-nuk-ua-heq-tvsh-n>

<sup>5</sup> "This is the beginning" ("Ky është fillimi") - <http://gazetaexpress.com/?cid=1,15,106586>

<sup>6</sup> The channel has already been licensed as a content provider by the Kosovo audiovisual media regulator, the Independent Media Commission (IMC).

<sup>7</sup> Law on Digitalization to provide more space for the public broadcaster ("Ligji për Digjitalizim të përcaktotj të shumë hapësirë për transmetuesin public) - <http://www.indeksonline.net/?FaqelID=2&LajmID=64469>

The legal framework for the media has meant important changes to the benefit of freedom of expression and freedom of media. Although the Civil Law against Defamation and Insult had been promulgated in 2007, decriminalization of defamation and insult was only completed in February 2012 under a decision of the Supreme Court of Kosovo.<sup>8</sup> Consequently, articles on defamation and insult were abrogated from the new Criminal Code of Kosovo. As of January 2013, media-related articles limiting freedom of expression and demanding the disclosure of journalists' sources of information were abrogated from the new Criminal Code of Kosovo.<sup>9</sup>

Internet is widespread in Kosovo. A 2013 study showed that 84.8% of households and 76.6% of individuals were connected to the internet.<sup>10</sup>

Besides the online versions of daily newspapers, the number of news portals on the internet has mushroomed over the last two years, and their role has presented an important development for media pluralism and diversification of sources of information, as well as quicker access to information. Technological developments have provided vast opportunities to access information on news portals and social networks. However, one of the persisting challenges to media pluralism is that the ownership of many news portals remains unknown, and there are no existing statistics available, except for those related to several news portals that are registered with the Kosovo Business Registration Agency.<sup>11</sup>

Many journalists have undergone professional training and completed journalism studies in the public university and private colleges. The Union of Journalists of Kosovo has called for the inclusion of media literacy as a subject in high school curricula.<sup>12</sup>

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<sup>8</sup> Constitutional Court of Kosovo / Principled stand - [http://www.gjykatasupreme-ks.org/repository/docs/Qendrim\\_parimor\\_598755.pdf](http://www.gjykatasupreme-ks.org/repository/docs/Qendrim_parimor_598755.pdf)

<sup>9</sup> Law on amending and supplementing the Criminal Code of the Republic of Kosovo no. 04/I-082

<sup>10</sup> Kosovo Association of Information and Communication Technology- "Internet Penetration and Usage in Kosovo" - [http://www.stikk-ks.org/uploads/downloads/STIKK\\_raport\\_eng\\_2013\\_web\\_08.pdf](http://www.stikk-ks.org/uploads/downloads/STIKK_raport_eng_2013_web_08.pdf)

<sup>11</sup> Kosova Business Registration Agency <http://www.arbk.org/>

<sup>12</sup> "Media literacy, selective subject in schools" ("Njohuritë për Medie", lëndë zgjedhore në shkollë?) - <http://www.kosova-sot.info/arsim/njohurite-per-medie-lende-zgjedhore-ne-shkolla>

## II. Regulation of hate speech

### 1. The general legal framework

The Constitution of Kosovo guarantees freedom of expression, which includes the right “to express oneself, to disseminate and receive information, opinions and other messages without impediment. Freedom of expression can be limited by law in cases when it is necessary to prevent encouragement or provocation of violence and hostility on grounds of race, nationality, ethnicity or religion.”<sup>13</sup> The Constitution also warrants direct applicability of international agreements and instruments to protect fundamental rights and freedoms, which in the cases of conflicts “have priority over provisions of laws and other acts of public institutions.” The Constitution furthermore provides that “no one shall be discriminated against on grounds of race, color, gender, language, religion, political or other opinion, national or social origin, relation to any community, property, economic and social condition, sexual orientation, birth, disability or other personal status.”<sup>14</sup>

The Criminal Code of the Republic of Kosovo also foresees that “whoever publicly incites or publicly spreads hatred, discord or intolerance between national, racial, religious, ethnic or other such groups living in the Republic of Kosovo in a manner which is likely to disturb public order shall be punished by a fine or by imprisonment of up to five (5) years.”<sup>15</sup>

### 2. Media specific regulations

The media legal framework is considered to be quite advanced in Kosovo. However, its implementation remains a challenge. While defamation and insult have been decriminalized, the Civil Law against Defamation and Insult prohibits publication of defamatory and insulting language in all forms, whether in writing or spoken and through the means of print or broadcast media.<sup>16</sup> While this law remains largely unimplemented, in order to mitigate

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<sup>13</sup> Article 40 [Freedom of Expression] of the Constitution of Kosovo - <http://www.kushtetutakosoves.info/?cid=2,250>

<sup>14</sup> Article 24 [Equality Before the Law] of the Constitution of Kosovo - <http://www.kushtetutakosoves.info/?cid=2,250>

<sup>15</sup> Criminal Code of the Republic of Kosovo, Article 147 - Inciting national, racial, religious or ethnic hatred, discord or intolerance, <http://www.kuvendikosoves.org/common/docs/ligjet/Criminal%20Code.pdf>

<sup>16</sup> Civil Law Against Defamation and Insult - [http://www.gazetazyrtare.com/e-gov/index.php?option=com\\_content&task=view&id=129&Itemid=28&lang=en](http://www.gazetazyrtare.com/e-gov/index.php?option=com_content&task=view&id=129&Itemid=28&lang=en)

harm caused by an expression and provide the right of reply, it requires complainants to seek remedy with publishers, or regulatory bodies for audiovisual broadcast media like the Independent Media Commission or the Press Council of Kosovo, a self-regulatory body for and by the print media.

The Law on the Independent Media Commission (IMC) obliges the institution to monitor audiovisual media services, receive complaints and take action in cases of violation of terms of license, code of conduct and other legal norms. The IMC's Code of Conduct for Audiovisual Media<sup>17</sup> clearly specifies that audiovisual media services cannot broadcast content that incites hatred and inequality on the grounds of ethnicity, religion, gender, race, marriage, age, physical or mental disabilities that could result in criminal or violent acts against an individual or a certain group. The IMC law foresees sanctions against violations of the code of conduct and its other by-laws. The Law on Radio Television of Kosovo also stipulates that RTK "shall not broadcast any material which in its content, sub-text, ambiguity, allegations or tone, incite discrimination based on race, color, sex, language, religion, political or other opinion, national or social origin, connection with any community, property, economic, social, sexual orientation, birth, disability, or other personal status."<sup>18</sup>

The Anti-Discrimination Law<sup>19</sup> also foresees monetary sanctions for discrimination by natural or legal persons of the provisions of this law and incitement of national, racial, religious and ethnic hatred, discord or intolerance, which are also criminal offences punishable by fine or imprisonment according to the Criminal Code of Kosovo.<sup>20</sup> The Law on Gender Equality prohibits all forms of gender discrimination in the media.<sup>21</sup> The institution of the Ombudsperson is vested with important responsibilities, which entail combating all forms of discrimination through conducting investigations, issuing recommendations, publishing reports, and providing services free of charge and public advocacy.<sup>22</sup>

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<sup>17</sup> Code of Conduct for Audiovisual Media - <http://kpm-ks.org/materiale/dokument/1292592101.0176.pdf>

<sup>18</sup> Law on Radio Television of Kosovo - Article 18 - Editorial policy and program content, point 4 - <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20Radio%20Television%20of%20Kosova.pdf>

<sup>19</sup> The Anti-Discrimination Law - [http://www.kuvendikosoves.org/common/docs/ligjet/2004\\_3\\_en.pdf](http://www.kuvendikosoves.org/common/docs/ligjet/2004_3_en.pdf)

<sup>20</sup> Article 147 of the Criminal Code of the Republic of Kosovo - <http://www.assembly-kosova.org/common/docs/ligjet/Criminal%20Code.pdf>

<sup>21</sup> Law on Gender Equality - [http://www.assembly-kosova.org/common/docs/ligjet/2004\\_2\\_en.pdf](http://www.assembly-kosova.org/common/docs/ligjet/2004_2_en.pdf)

<sup>22</sup> The mission of the Ombudsperson Institution - <http://www.ombudspersonkosovo.org/en/mission>



### 3. Media self-regulatory framework

Since its establishment in September 2005, the Press Council of Kosovo has worked to improve and increase the accountability and professional reporting standards of the print media. With the adoption of the Press Code of Kosovo in March 2005, the majority of the print media joined the Press Council and have gradually increased their adherence to the Press Code.<sup>23</sup> This Code, which has been tailored by local media experts in close cooperation with the international community and media experts, prohibits hate speech and incitement of criminal acts and violence in print media. Provisions of the Code apply to online news agencies and news portals as well. The Press Council does publish professional opinions on cases of violations of the Press Code against non-members as well as members, but is mainly complaint-driven, despite the fact that its rules of procedure require the initiation of cases on its own initiative.<sup>24</sup> Complementing the applicable legislation against discrimination, the Press Code also demands from that the press community not treat with contempt or use derogatory terms against individuals or groups on the grounds of their ethnicity, religion, sex, race, color, marital status, age or disability.<sup>25</sup>

The Press Council has taken a proactive approach towards the trend of a rapidly increasing number of news portals accompanied by the publication and non-moderation of inflammatory readers' comments. On its own initiative, the Press Council drafted and adopted Guidelines for Online Journalism,<sup>26</sup> which specifically require editorial boards to monitor their news portals and moderate content that incites denigrating and hateful speech or provokes criminal offences. The Press Council has adjudicated on complaints against online media publishing stories containing hate speech targeting individuals<sup>27</sup> or groups of people. Formerly, the Press Council imposed financial sanctions as per its statute, but sanctioned media declined to implement its decisions.<sup>28</sup>

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<sup>23</sup> Conversation with Nehat Islami, Director of the Press Council of Kosovo; Press Code for Kosovo - [http://presscouncil-ks.org/repository/docs/Press\\_Code\\_for\\_Kosovo-eng.pdf](http://presscouncil-ks.org/repository/docs/Press_Code_for_Kosovo-eng.pdf)

<sup>24</sup> Paragraph 5 of the PCK Rules of Procedure - <http://www.presscouncil-ks.org/?cid=2,11&tpl=section.php>

<sup>25</sup> Press Code for Kosovo - [http://www.presscouncil-ks.org/repository/docs/Press\\_Code\\_for\\_Kosovo-eng.pdf](http://www.presscouncil-ks.org/repository/docs/Press_Code_for_Kosovo-eng.pdf)

<sup>26</sup> Guidelines for Online Journalism - <http://www.presscouncil-ks.org/?cid=2,17>

<sup>27</sup> Stories and editorials published from 29 May through 07 June 2009, by the former daily *Infopress*. Ms Jeta Xharra vs. Infopress - <http://www.presscouncil-ks.org/?cid=1,15,216>

<sup>28</sup> According to the Secretariat of the Press Council of Kosovo

The Press Council of Kosovo has worked continuously to implement its Guidelines for Online Journalism,<sup>29</sup> raising awareness among online media to moderate derogatory user-generated comments, as well as decisions reached in upholding few cases of hate speech in online media.<sup>30</sup> These guidelines call upon the “editorial boards not to publish articles or comments that incite or cause direct discrimination on the grounds of gender, age, marital status, language, physical or mental disability, sexual orientation, national origin, opinion or political affiliation, religion or faith, ethnic or social origin, race, property, birth or any other status.”

The Independent Media Commission has followed the developments related to online media content and has shown concerns about the language used and published in online media, in which readers’ comments represent the biggest challenge. Currently, this body has no legal basis and is not mandated to deal with complaints addressed against news portals.<sup>31</sup>

Besides action taken by the Press Council to address challenges presented by online media, no other mechanisms that regulate or self-regulate online media exist. The Association of Professional Journalists of Kosovo has held meetings with online media representatives to address these problems.<sup>32</sup>

### III. Extent and nature of hate speech in online media

Since 2008, findings of the European Commission Progress Reports<sup>33</sup> for Kosovo have not detected cases of hate speech in print and electronic media. During a visit to Kosovo on challenges to freedom of the media, the South East European Media Organization learned from interviews with national and international media representatives and stakeholders that hate speech in media was generally absent.<sup>34</sup>

As new emerging media in a post-communist and post-conflict society, online media in Kosovo represent a challenge for institutions that

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<sup>29</sup> Guidelines for Online Journalism - <http://presscouncil-ks.org/?cid=2,17>

<sup>30</sup> Conversation with Nehat Islami, Director of the Press Council of Kosovo

<sup>31</sup> According to the Chief Executive Officer of the Independent Media Commission

<sup>32</sup> Written correspondence with Arben Ahmeti, former Chairperson of the Association of Professional Journalists of Kosovo

<sup>33</sup> European Commission Progress Reports for Kosovo - <http://ec.europa.eu/enlargement/countries/strategy-and-progress-report/>

<sup>34</sup> Report on the SEEMO Press Freedom Mission to Kosovo - 23-25 November 2011 [http://www.freemedia.at/fileadmin/media/Report\\_20on\\_20SEEMO\\_20Mission\\_20to\\_20Kosovo\\_202011.pdf](http://www.freemedia.at/fileadmin/media/Report_20on_20SEEMO_20Mission_20to_20Kosovo_202011.pdf)

deal with media accountability. Although most online media, whether mainstream media or other news portals, apply provisions of codes of ethics in their stories, they allow the publication of user-generated or readers' comments, which contain hate speech, derogatory language, slander, and declarations of others within the Kosovo society as traitors and spies.<sup>35</sup> Toleration by online media of derogatory language generated by their readers can have serious implications in social acceptance, interethnic tolerance and further professional development of online media. The publication of derogatory and hateful comments degrades the professional credibility and approach of online media towards their readers. Hate speech in media in Kosovo is also seen by media experts from the perspective that it does not represent a trend but rather comes more in the form of recklessness.<sup>36</sup>

Online media and popular journalists in Kosovo generally tend not to use hate speech in journalistic reports. While most of the mainstream media report in adherence with the ethical norms of the code of conduct, derogatory language is more often generated by readers in the comments sections of "small news portals, most of which do not employ enough staff and try to win reputation of courageous media by publishing anything."<sup>37</sup> Social media networks contain insults and pejorative language directed against public persons, mostly government officials.<sup>38</sup>

During a roundtable discussion on the application of the Code of Ethics to internet-based news portals, the Press Council of Kosovo identified challenges that related to the quality of the published news on the internet news portals. Panellists and media experts said that most news portals in Kosovo do not moderate user-generated comments, and often the language used by readers is denigrating and incites hate speech. This constitutes violation of applicable legislation<sup>39</sup> and the code of conduct on hate speech and discrimination, whereby the "media should not publish any material which in any way contains or incites denigrating language, hate speech or criminal actions."<sup>40</sup>

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<sup>35</sup> Written correspondence with Mr. Halil Matoshi, Columnist, Daily Newspaper Koha Ditore

<sup>36</sup> Presentation by University Professor Ibrahim Berisha in a debate on Hate Speech in the Media <http://www.fondacioniatmosfera.com/index.php/multimedia/galeria/92-categoryaktivitete/137-debati-me-teme-gjuha-e-urrejtjes-ne-media>

<sup>37</sup> Written correspondence with Nehat Islami, Director of the Press Council of Kosovo

<sup>38</sup> Press Council condemns hate speech in portal ("Këshilli i Mediave dënon gjuhën e urrejtjes së portal") <http://gazetajnk.com/?cid=1,1018,5135>

<sup>39</sup> According to panellists and participants in the PCK roundtable "Journalism ethics on Internet news portals" May 2012 - <http://presscouncil-ks.org/?cid=1,13,362>

<sup>40</sup> Guidelines for Online Journalism, Article 1 - <http://presscouncil-ks.org/?cid=2,17&tpl=section.php>

Stereotyping is another worrying trend in some news portals where readers in most cases comment anonymously, and frequently use derogatory language targeting public persons and members of ethnic and other communities.<sup>41</sup>

According to media experts, the reasons behind publication and non-moderation of derogatory comments are not directly related to the lack of professionalism, but to the purpose of news portals to have as many visitors as possible. News portals compete to receive as many “mouse clicks” as possible, while many such portals have only three to four staff. Also, speed to publish news is more important than the content, according to the representative of one news portal.<sup>42</sup>

While regulation of hate speech in journalistic stories is subject to adherence to existing legislation, regulations and codes of conduct, this legislation is not being applied in the case of online media and their publication of derogatory and inflammatory user-generated comments. Besides allowing for the publication of hateful comments, user-generated comments also contribute to the further misuse of online media by various groups that often propagate extremist content.<sup>43</sup>

Nonetheless, there do exist news portals that apply professional reporting standards and do not publish readers’ comments that contain derogatory language and hate speech.

## **1. Reporting on interracial and interethnic divisions**

Over the past decade, efforts made by local journalists, local and international media experts, and independent media institutions, coupled with improvement of the legal framework, have helped to improve media accountability in Kosovo.

The expansion of news portals and the accompanying expansion of hate speech most often observed in readers’ comments has presented a new challenge for media accountability institutions. Such institutions must still work to establish sustainable mechanisms to address the issue of derogatory and offensive user-generated comments in readers’ sections of news portals.

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<sup>41</sup> Opinion of the Press Council of Kosovo on the Complaint of Sarah Maliqi from the Civil Rights Defenders, against the “Telegrafi.com” portal - <http://www.presscouncil-ks.org/?cid=2,15,401&tpl=list.php>

<sup>42</sup> Regional Portals punished for stealing news from news agencies (Portalet rajonale dënohen për vjedhjen e lajmeve nga agjencitë) - <http://kosovapress.com/?cid=1,2,139071>

<sup>43</sup> Written correspondence with media experts

From lessons learnt over the past decade and work done to improve the media sector, interracial and interethnic hate speech is not widespread in journalistic stories whether in traditional or online media. In contrast to mainstream electronic media like television and radio, which are subject to regulation by the broadcast media regulator, and several other news portals which adhere to the existing media legislation and codes of ethics, some news portals do not moderate offensive user-generated content in their readers' sections.

Online news portals have allowed for the publication of derogatory user-generated comments not only against another race, but also within a single ethnic community. Such language can also be observed when social media users create insulting 'news items' from statuses and comments by public persons in social networks.<sup>44</sup>

Stereotyping is another occurrence in online media. Pejorative stereotypes, comments and terms commonly used in the comments sections of online media from ethnic and racial perspectives include expressions like "*shkije*" (derogatory term directed against Serbs), "*magjup*" (derogatory term directed against Roma), or terms directed against specific groups and communities like the usage of the term "*peder*" (derogatory term for gay individuals).

Other commonly used stereotypes found in the user-generated comments of news portals include labelling politicians or other public figures as "traitors", "spies", "communists", "venal" or "corrupt".<sup>45</sup>

Use of anonymity by readers of news portals, according to media experts, constitutes one of the biggest problems in online media for media professionals. By posting anonymous comments on published stories, readers frequently use language that is derogatory on the basis of ethnicity, gender, religion, race, sex and intrusion into private life. Another development is related to the political agendas of certain online media, which have opened their readers' comments sections to anonymously attack other political opponents. There have been similar cases in the past when certain newsrooms of daily newspapers published their own opinions under false names in the pages reserved for readers' opinions.<sup>46</sup>

Hateful comments are also addressed against journalists and other public persons in comments sections of news portals and social networks.

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<sup>44</sup> Written correspondence with Artan Haraqija, Assistant Chief-editor of the daily *Zëri*

<sup>45</sup> Written correspondence with media experts

<sup>46</sup> Written correspondence with Leonard Kërquki, Chief-editor of the news-portal *Gazeta Express*

Depending on the complexity of the stories and editorials and opinions published, journalists receive threatening messages. After publishing an opinion on the danger Kosovo faces from Islamic radicals last August, a journalist reported to have received death threats on top of being labelled with derogatory terms.<sup>47</sup>

## 2. Reporting on minorities

In a study that monitored three Kosovo television stations and seven daily print media, the Kosovar Institute for Media and Policy found that ethnic minorities were relatively underrepresented in media coverage. The study also noted that the findings strongly suggested that there was no negative presentation of ethnic communities in journalistic reports and that the language used in headlines and stories could be considered as neutral.<sup>48</sup>

For example, no derogatory comments were observed in professional news portals and agency reports on the closure in late 2012 of a camp in north Mitrovica that sheltered Roma, Ashkali and Egyptian families.<sup>49</sup>

When it comes to online media, inappropriate treatment of minority groups in various forms related to ethnic, religious, sexual and gender aspects can be observed in unregulated user-generated comments.<sup>50</sup>

The protest by a group of activists in support of the LGBT community in Kosovo was widely reported by news portals and on social media, after an incident in which a group of assailants raided the presentation of the Kosovo 2.0 magazine, which aimed to discuss sex issues and the LGBT community. When online media reported about the incident, they allowed the publication of user-generated derogatory language and comments.

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<sup>47</sup> "Explosion of Hate" ("Shpërthimi i urrejtjes") opinion by Imer Mushkolaj- <http://www.gazetaexpress.com/?cid=%201,890,90395>

<sup>48</sup> "Media Representation of Ethnic Minorities"- ("Prezantimi i Minoriteteve Etnike në Mediat Kosovare") [http://kimp-ks.org/pod/Prezantimi\\_iMinoriteteveEtniken235MediatKosovare\\_2.pdf](http://kimp-ks.org/pod/Prezantimi_iMinoriteteveEtniken235MediatKosovare_2.pdf)

<sup>49</sup> See, for example, "Roma camp closes down in Mitrovica" ("Mbyllet kampi i romëve në Mitrovicë") - <http://kosovapress.com/?cid=1,92,157078>

<sup>50</sup> Written correspondence with Alban Zeneli, Lecturer, Department of Journalism, University of Prishtina

## IV. Measures taken by media to address online hate speech

The filtering of derogatory and offensive user-generated comments inciting hate speech constitutes one of the main challenges that online media face in Kosovo.

According to media experts, news portals' application of automatic filters has not been very successful in prohibiting offensive expressions.

However, several news portals have rules for the users of their websites and disclaimers of liability stating that reader opinions and comments do not reflect the views of the editorial offices. For example, the newspaper *Jeta në Kosovë* states that: "All writings and comments that contain discriminatory language, degrading, inciting hatred or criminal actions are prohibited. Newspaper *Jeta në Kosovë* reserves the right to disclose or not the articles and comments. The content of the comments is in no way to be considered to reflect the views of the editorial board." Such news portals, say media experts, clearly identify the authors of the stories, indicate copyright and refute offensive content in readers' comments sections.

The Press Council of Kosovo has advocated adherence to a code of ethics and guidelines for online journalism, including practical training on the responsibilities and liability of online media, methods to moderate offensive language generated through readers' comments, and valuable recommendations that could be applied by online media.<sup>51</sup>

Little progress has been made by some online media in implementing measures to prohibit hate speech and to adopt balancing measures to protect freedom of expression. The effectiveness of measures taken by online media to prohibit hate speech depends on the willingness of individual online media to adhere to applicable codes of conduct and legislation. Media experts perceive that some news portals have been able to prohibit derogatory language while still allowing for healthy opinions and debate related to a story, to the benefit of their readers' freedom of expression.

### *Cases adjudicated by the Press Council of Kosovo*

In October 2012, the news portal telegrafi.com published a story headlined "LGBT Parade in Serbia: Support from Albanian activists", which reported that the gay community in Serbia organized a parade inside four walls after the government did not let them organize one in the streets. The

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<sup>51</sup> "Ethics of journalism in online media, June 2011 - By expert consultant, Mr. Flip Voets, Ombudsperson of the Flemish/Belgian Press Council" - <http://www.presscouncil-ks.org/?cid=1,13,292>

story moreover included the positions of opponents of the parade and calls from the European Parliament to allow the parade to proceed, as it was important for integration. The story included a video taken from the Albanian Top Channel TV, which featured a human rights activist from Pristina among the interviewees. This activist later filed a complaint with the Press Council of Kosovo against the news portal for allegedly allowing the publication of readers' comments that contained hate speech, insult and incitement to treat individuals or groups with prejudice based on gender, and incitement to use denigrating expressions with the purpose of harming or threatening respective individuals or groups of different gender or sexual orientation. This represents a violation of Article 3 under 2a and 2b of the Press Code of Kosovo (Incitement and Hate Speech), as indicated in the decision of the Press Council. In December 2012, the Press Council of Kosovo gave its professional opinion upholding the complaint on the grounds that the portal allowed the publishing of derogatory readers' comments containing hate speech and insult as per its Press Code<sup>52</sup>

In April 2013, the Press Council of Kosovo gave its professional opinion upholding a complaint filed by the Youth Initiative for Human Rights NGO against the telegrafi.com news portal, after the latter published a story headlined "27 Serb cemetery memorials destroyed in Klokot." The NGO claimed that the article had incited hate speech and denigrating and discriminatory language, and stated that the news portal had the right to ask questions as any other media, but it did not have the right to publish readers' comments that incite hate speech.<sup>53</sup>

### *Conclusion*

Online media generally do not practice hate speech and discrimination in their journalistic stories. However, they do often allow for the publication of derogatory language generated by their readers and do not hold themselves responsible for the content allowed in their portals, being aware that such content could be read by minors and could have adverse effects for the young generations.

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<sup>52</sup> Opinion of the Press Council of Kosovo on the complaint of Sarah Maliqi from Civil Rights Defenders, against news portal Telegrafi.com, (Opinion i Këshillit të Mediave të Shkruara të Kosovës ndaj ankesës së Sarah Maliqit nga Civil Rights Defenders, kundër portalit Telegrafi.com) - <http://www.presscouncil-ks.org/?cid=2,15,401&tpl=list.php>

<sup>53</sup> Opinion of the Press Council of Kosovo on the complaint of Youth Initiative for Human Rights against news portal Telegrafi.com, (Opinion i Këshillit të Mediave të Shkruara të Kosovës ndaj ankesës së Nismës së të Rinjve për të Drejtat e Njeriut, kundër Portalit Telegrafi.com) - <http://presscouncil-ks.org/?cid=1,15,425>



No sufficient initiatives were taken by media accountability institutions to implement applicable legislation and codes of ethics to encompass online media, in order to prohibit hate speech and discrimination in online media generated by readers' comments, and advocate for healthy and educated debates in online media without endangering freedom of expression.

Transparency of ownership of many online media remains a challenge.

Many online media compete to receive as many visitors as possible while not giving attention to the moderation of derogatory and discriminatory language generated by the readers of online media. They often have a small number of staff and are unable to ensure the quality of published output and comments.

Anonymity represents a challenge in online media, resulting in the expansion of threats, hate speech and derogatory language.

Moderation of readers' offensive comments and implementation of rules on using online media remain challenges for most online media in Kosovo.

## **Recommendations**

- Media accountability bodies, journalists associations, civil society and the Office of the Ombudsperson should organize meetings with the owners of news portals to discuss persisting challenges presented by hate speech and decide on solutions related to the proper functioning, impact, and best practices for the work of online media;
- The Press Council of Kosovo should design specific training programmes for young journalists and moderators and launch awareness-raising campaigns that aim to sensitize people on the possibilities of filing complaints and going to courts in cases of hate speech published by online media;
- Media institutions, journalists associations, civil society and media stakeholders should play a more active role and work on the creation of a mechanism/body that deals only with application, regulation or self-regulation of online media;
- In light of media convergence and digitalization, media accountability bodies should consider and suggest best practices on methods to regulate audiovisual content in online media;

- Schools and media should educate young people in media and information literacy, including on hate speech and communication between groups, promotion of freedom of expression and interethnic tolerance;
- Public and private traditional media, in particular television stations but also mainstream online media should provide space for public awareness campaigns against hate speech in online media;
- Online, print, audiovisual media and relevant media stakeholders and institutions should continuously discuss terms of service of online media to strike a balance that prevents violation of freedom of expression online while banning hate speech that is prohibited and subject to sanctions within the legal media framework.
- Newsrooms, moderators and administrators of news portals should find ways to identify authors of comments in readers' sections.
- Existing codes of ethics and self-regulation should be adapted to the online media environment.

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# Hate speech in online media in Macedonia

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## **Main information on the regulation of hate speech in Macedonia**

**Internet penetration in the country:** 65% of households have access to the Internet from home; 65.4% of population aged 15-74 have used the Internet, or approximately 1,300,000 users (source: State Statistical Office)

**Most read online media outlets:** puls24.mk (31.12% reach), kurir.mk (30.11%), telegraf.mk (28.54%), motika.com.mk (26.61%), think.mk (26.); (all data from Gemius Measurement, November 2013); Note: only around 70 media participate in Gemius measurement system. Not all media are included in the system, including several popular online editions of traditional media and other popular websites.

**Laws:** “instigation of violent change to the constitutional system” (Criminal Code (CC) - Article 318), hate speech (CC - Articles 319, 417); public negation, rough minimization, approval or justification of a genocide, crimes against humanity or military crimes by means of an information system (CC, Article 407-a); “the person who exposes another person to mockery through an information system, because of his or her membership in a group of a different race, skin color, nationality or ethnic origin, or will expose to mockery the entire group of people who have such characteristics, shall be punished with a fine or imprisonment of up to one year” (amendments to the CC from 2009, Article 173).

### **Media specific laws/regulations - Broadcasting:**

“encouragement or incitement to military aggression or stirring of national, racial, sexual or religious hatred and intolerance” Broadcasting Law, Art. 69 (law replaced with new media legislation passed in December 2013; no sanctions against hate speech are foreseen in the new legislation)

### **Media specific laws/regulations - Print and online media:**

Provisions related to hate speech within the Code of Journalists (article 10); Ethical principles defined in the Code pertain primarily to content generated by journalists/media outlets; There is still no self-regulatory mechanism that treats the media as accountable in terms of removal of contested user-generated content

**Self-regulatory body supervising the Code:** Council of Honour of the Association of Journalists of Macedonia, and recently, the Council for Ethics in Media in Macedonia (SEMM)

**Media included in self-regulatory system:** The Council of Honour gave judgements for all media violations, although had a policy to assess only complaints that related to AJM members. The newly-formed SEMM will include not only traditional, but also Internet-based media

**Examples of media establishing terms and conditions for online comments:** many media have done so, including web-native Plusinfo, electronic publications of newspapers such as nova Makedonija, Utrinski vesnik, Dnevnik and websites of TV stations, such as Kanal 5. Besides rules for comments, consistent moderation of the content is considered to be essential.

## I. Media landscape and importance of online media

The democratization and pluralism of the media landscape in Macedonia closely followed the democratization of Macedonian society, which began with the first multi-party elections in 1990 and the country gaining its independence from Yugoslavia in 1991. About 200 public and private traditional media outlets at the national and regional levels provide space for media pluralism, diversity of information and content and a lively debate on issues of public interest. Despite this diversity, the media have faced frequent challenges due to inter-ethnic and inter-political relations, the region's turbulent history, and tense relations with neighbours (all of which have been part of life in the country in the past 20 years of transition), as well as a poor economy.

According to 2013 data, there are three TV and four radio services operated by MRTV (the public broadcaster - PBS), offering programmes in Macedonian, but also in Albanian, Turkish, Bosnian, Serbian, Roma and Vlach languages (on the 2nd most popular TV channel and 3rd most popular radio channel). There are also 150 private TV and radio broadcasters, including 68 TV stations – four of which are national broadcasters (Sitel being the market leader, followed by Kanal5, Telma and Alsat M, which airs in Albanian), six private TV channels licensed to broadcast nationally via satellite and through cable operators (in Macedonian language only - Sitel3, Kanal5+, AlfaTV, TV 24 Vesti, Nasa TV), and 58 regional and local TV stations, with about 20 of them broadcasting in a language different other than Macedonian (13 in Albanian, and several TV stations that broadcast on Roma-2, Turkish-3 and Bosnian language-2). In radio, besides PBS, there are 3 private national radios (all in Macedonian language); the other 79 are local and regional radios, 17 of which broadcast in minority languages (13 in Albanian, 2 in Turkish, 1 in Roma and 1 in Serbian/Croatian).<sup>1</sup>

In print, although there is no official research providing concrete measurements and precise figures about the number of print media (dailies and weeklies) and their circulation, based on media market observations and data from different studies and media monitoring activities carried out by the Macedonian Institute for Media (MIM), it can be observed that the number of public interest and general information-oriented print media

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<sup>1</sup> Agency for Audio and Audiovisual Media Services (former Broadcasting Council of Republic of Macedonia)  
List of TV stations: [http://www.avmu.mk/index.php?option=com\\_content&view=article&id=1146&Itemid=342&lang=en](http://www.avmu.mk/index.php?option=com_content&view=article&id=1146&Itemid=342&lang=en)  
List of radio stations: [http://www.avmu.mk/index.php?option=com\\_content&view=article&id=1146&Itemid=342&lang=en](http://www.avmu.mk/index.php?option=com_content&view=article&id=1146&Itemid=342&lang=en)

has decreased. Currently four dailies are published in Macedonian, two in Albanian and one in Turkish (three times a week), and there are only two weeklies published in the Macedonian language. There are also a variety of print media (dailies, weeklies and magazines) that have other formats and deal with other types of information, such as sports, entertainment, trivia, and music, as well as trade-specific magazines.

However, in the past five years, both domestic and foreign experts have noted a number of major challenges for the media in Macedonia, including that: media outlets are being shut down; the environment has become more difficult for journalists to work in due to increasing political and economic influence and pressure on the media, which is further reflected in media's editorial policies and often in the practice of self-censorship by journalists; the political, financial and economic dependence of the PBS and of the Broadcasting Council (the regulatory body until this year); inconsistent application of the media legislation; and state advertising campaigns used to influence media. These concerns were consecutively repeated in the Progress Reports of the European Commission, including the most recent one.<sup>2</sup>

Similar assessments, and even harsher criticism of the situation for the media can be observed in reports from prominent international media freedom organizations. According to Reporters Without Borders' Media Freedom Index, in 2012 Macedonia placed 116th, which represents a decline

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<sup>2</sup> "Despite legislative progress in the area of freedom of expression, the country's reputation in relation to media freedom has continued to deteriorate, both domestically and internationally. Trust between the government and media representatives was seriously damaged by the events of 24 December 2012. The Media Dialogue, which had served as a positive example for the region since its launch in 2011, was interrupted. The media environment remains highly polarised. During local elections in March, both the Broadcasting Council and the OSCE/ODIHR reported a lack of balanced coverage by several broadcasters, including the public service broadcaster. Extensive consultations were held with both international experts and stakeholders on the preparation of two new draft media laws, however key differences remained unresolved. There are continued concerns about government advertising spending, which is claimed by many to be directed only towards pro-government media, giving them a significant financial advantage. High-quality investigative journalism and the public's access to balanced reporting and a wide variety of views need to be strengthened." The European Commission, *the former Yugoslav Republic of Macedonia 2013 Progress Report*, pg.13; available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf) "New draft laws on media and on audio-visual media services were prepared which also include provisions on freedom of expression and the media; however during the consultation phase these were criticised by some stakeholders as potentially open to abuse. There are continued concerns about the lack of transparency of government advertising and self-censorship due to economic pressures exerted on journalists and media owners. Polarisation of the media and poor professional standards hamper the public's right of access to diverse viewpoints and accurate information." - The European Commission, *the former Yugoslav Republic of Macedonia 2013 Progress Report*, pg.45; available at [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf)



of 80 places compared to the same index in 2007. In 2012 alone Macedonia dropped 20 places and the country was placed in the “big falls” section of the index because of “the arbitrary withdrawal of media licenses and deterioration in the environment for journalists”.<sup>3</sup> As noted in the Freedom House report on global freedom in 2012, “although the constitution provides for freedom of the press, political tensions have increased pressure on the media. The A1 Television investigation saw the station and three of its newspapers – Vreme, Spic, and Koha e Re — close in 2011. All had criticized the government, and Amnesty International found that the closures appeared to be politically motivated.”<sup>4</sup> The Freedom House report also underlines the risk stemming from the government, which is among Macedonia’s largest advertisers, increasingly placing advertisement with friendly outlets only, which would lead to stifling independent press.<sup>5</sup> Though 2011 saw the creation of a new independent media union, amendments made to the Broadcasting Law increased the number of seats in the Broadcasting Council for government-related appointees, further raising concerns about the independence of the Council. The lack of sustainable funding for the public broadcaster, Macedonian Radio and Television, is also an issue of concern.

It is an aggravating factor to the difficult environment for the media that the “Macedonian media outlets like society at large are strongly divided along ethnic lines,” as stated in the Freedom House 2012 Report, which ranked Macedonia in 120th place in its global ranking, among partially free countries.

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<sup>3</sup> Reporters Without Borders, *Press Freedom Index 2013*, available at: <http://en.rsf.org/press-freedom-index-2013.1054.html>

<sup>4</sup> Freedom House, *Freedom in the World – Macedonia 2012*, available at: [http://www.freedomhouse.org/report/freedom-world/2012/macedonia#.UugOH\\_so\\_Dc](http://www.freedomhouse.org/report/freedom-world/2012/macedonia#.UugOH_so_Dc) “These closures, the amounts demanded, and the conditions of payment, appear to be politically motivated,” said Nicola Duckworth, Amnesty International’s Director for Europe and Central Asia. “; “Macedonian Government Must Stop Silencing Critical Media”, 5 July 2011, available at: <http://www.amnesty.org/en/news-and-updates/macedonian-government-must-stop-silencing-critical-media-2011-07-05>

<sup>5</sup> “The latest European Commission report raised this as a serious concern, and the DG Enlargement report of June says that at least 1% of the annual national budget (20 million Euros) is invested in media outlets through government campaigns and advertising. This highlights the authorities’ huge influence in the media sphere. Bearing in mind that there are no criteria for how to distribute these funds, ‘governmental friendly’ media outlets are favored over others. Professionals are fired and people with personal integrity are replaced by obedient mouthpieces, while a huge number of journalists are living in professional insecurity. Behind the veil of ‘economic reasons’, critical media is vanishing’. Tamara Causidis, President of the Trade Union of Macedonian Journalists and Media Workers (SSNM), and Dragan Sekulovski, Executive Director of Association of Journalists of Macedonia.(AJM), “Macedonia: ‘Critical media is vanishing’” *Index on Censorship*, 19 November 2013, available at: <http://www.indexoncensorship.org/2013/11/macedonia/>

These problems have grown over the last 20 years, not least because both the authorities and the media have neglected them.<sup>6</sup> As a result, a considerable number of TVs, radios and newspapers have been closed,<sup>7</sup> the media have become less self-sustainable, and many journalists have lost their jobs. At the end of 2012, Erol Rizaov, a prominent editor and founder of media outlets with more than 30 years of experience, wrote in *Utrinski Vesnik* that more than 15 editors-in-chief and more than 50 editors in different mainstream media in Macedonia had lost their jobs over the past five years. In April 2013, the International Federation of Journalists together with the Independent Union of Journalists and Media Workers from Macedonia (SSNM), in an analysis of the working conditions in the media, showed that with the closure of media outlets over the last few years, and the closing of working positions in existing media, about 900 working positions were terminated in the country between 2010 and 2013, including both journalistic and technical positions.<sup>8</sup> Although a number of these media workers later found jobs in existing media or in other fields, a realistic estimation is that today more than 200 qualified and professional newsroom leaders and over 500 journalists have lost their jobs.<sup>9</sup>

The situation has become even more challenging with the date set for the digitization of the broadcast media. The preparations here have been

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<sup>6</sup> “The Action plan for Improvement of the Media Landscape in the Republic of Macedonia”, produced by AJM and MIM in a comprehensive process that included over 40 prominent journalists and editors in the drafting phase, and over 70 representatives of media organizations and education institutions, state institutions, ruling and opposition political parties, PBS, broadcasting authorities and media owners, in its preamble, amongst five key points, states that “almost all subjects in the media sphere (state institutions, politicians, media, journalists) in the past years have contributed to the creation of the negative atmosphere in the media” ; *The Action plan for Improvement of the Media Landscape in the Republic of Macedonia*, February 2012, pg 1, available at: [http://www.znm.org.mk/drupal-7.7/sites/default/files/Action%20plan\\_31%20january%202012\\_FIN\\_eng.pdf](http://www.znm.org.mk/drupal-7.7/sites/default/files/Action%20plan_31%20january%202012_FIN_eng.pdf)

<sup>7</sup> The year 2013 saw the closing of the daily and weekly *Fokus* (the weekly restarted in November 2013) after its capable owner Nikola Mladenov died in a car accident, as well as the closing of the recently emerged daily *Den* and weekly *Gragjanski*. In 2011, during the confrontation of the Government and the ruling VMRO-DPMNE with Velija Ramkovski, owner of TV A1 and A2 and newspapers *Vreme*, *Spic* and *Koha e Re* resulted in the imprisoning of Ramkovski for tax evasion and the closing of these media outlets. The past five years have also brought the closing of several minority language media, including the oldest private newspaper in the Albanian language *Fakti*, the daily *Roma Times*, two children’s magazines in Roma language, TV Alb (national satellite TV station in Albanian language), local Radio Cerenja in Roma language, and several other newspapers and TV and radio stations.

<sup>8</sup> Interview with Tamara Causidis, president of SSNM, November 2013

<sup>9</sup> “Just to illustrate: there is still no single research on why, during the last four or five years in Macedonia, in the leading newspapers over 15 editors-in-chief and over 50 editors of sections were changed, have resigned or left. Most of them were proven professionals. If we add to this the clean-ups in the most-viewed television stations, we are speaking of a

marked by delays and rushed attempts to compensate for the delays. This process has contributed to intense debate between owners of TV stations, the government, and the privately owned company that will administer digital broadcasting. Of all TV broadcasters, as of 1 June 2013, 60 had continued to broadcast digitally – 30 on the new digital multiplexes (all national TV stations and some regional and local) and 30 TV stations (all regional or local) only through cable operators. Some media outlets stopped broadcasting after the switchover.<sup>10</sup>

In April 2013, the Ministry of Transport and Communications publicly announced the proposal of a new law to regulate the media landscape. The proposed legislation, apart from traditional broadcasting, audio and audiovisual media services, also comprises articles that would regulate the registration of electronic publications on the internet, as well a proposal to regulate the printed press, including its distribution. Additionally, it moves into journalistic and editorial aspects of media operations, as the definition of a journalist is included in the definitions of the law, as well as certain definitions of relations between editors and journalists, including in print, broadcast and internet media.<sup>11</sup>

This new proposal divided the media community. The large media organizations led by the Association of Journalists of Macedonia (ZNM) (mac. ZNM, eng. AJM), the Independent Union of Journalists and Media (SSNM), the Macedonian Institute for Media (MIM) and the Media Development Center (MDC) all rejected the text in favour of a much simpler adaptation of the Audiovisual Media Service Directive of the EU through a law that would regulate only audiovisual media services, and that would not interfere in existing self-regulation, newsroom management issues, or provide possibilities for censorship of media content.<sup>12</sup> In its analysis

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striking Stalinist sweep. In Macedonia, journalists and owners and editors are subject to intense pressure as never before”; “Што јужније, то тужније” (More towards south, more towards sadness), Erol Rizaov, Utrinski Vesnik, 6 December 2012, available at: <http://utrinski.com.mk/?ItemID=890EA8168AF6674CA3EC5D4308C320A1>

<sup>10</sup> TV Krt and AB TV, for example, stopped airing their programmes, probably because of financial/economic reasons. Before the switchover, many TV stations, especially small local ones, argued that the company that operates with the digital transmitting multiplexes had set overly high fees.

<sup>11</sup> Draft versions of the AVMS law and the Media law and comments of different media organizations and stakeholders discussed until the closing of this research are available at the Unique National Electronic Registry of Regulations of Republic of Macedonia: <https://ener.gov.mk/default.aspx?item=pub-regulation&subitem=ria&itemid=oY7NDb1PHisLPRSVXBsmyw>

<sup>12</sup> Position of AJM, SSNM, MIM and MDC for media law, 18 July 2013, available at: <http://www.znm.org.mk/drupal-7.7/en/node/660>  
“AJM agrees with OSCE about media laws”, published on 5 August 2013, available at: <http://www.znm.org.mk/drupal-7.7/en/node/661>

of the draft law, the OSCE expressed similar concerns about the over-regulation of media and the infringement of freedom of expression.<sup>13</sup> Those that support the draft-law are the Macedonian Association of Journalists (MAN), whose membership recently has grown with members from the PBS and other pro-government media, the largest employers of journalists at the moment. MAN and its leading and most prominent members, who held key positions in pro-government media and frequently advocate openly for this association, did not hide its intention to be the “majority journalists’ association”,<sup>14</sup> which as stated in the draft law would provide them with the right to delegate members to the regulatory bodies, including the PBS Council.

Besides the debate about the independence of the proposed regulatory bodies, the on-going public discussion regarding the draft is especially focused on the issues of possible instatement of censorship and further infringement of freedom of expression through issues that are suggested to be incorporated in this law, but rightly should be dealt with in different laws, such as labour conditions and copyright. The on-going public debate offers different views on which course Macedonia should take for further harmonization with European legislation and other international standards. It should be noted that the new draft, in contrast with the current law, does not incorporate any sanctions on hate speech.

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<sup>13</sup> <http://www.osce.org/fom/102135>

<sup>14</sup> “The law was obstructed for almost 2 and a half years by the other journalist association AJM and its president Nasser Selmani, because of the fear that if the law is passed, AJM will not have a representative in the Media Council (the journalist refers to the council of the newly-formed Agency for Audio and Audiovisual Media Services, the broadcasting authority that inherits the Broadcasting Council according to new laws), as well because of the obvious weakening of the association and the fact that MAN has assumed primacy in the journalists trade. In this body, a legitimate representative of journalists had to be a member of MAN, as a majority journalist association with over 400 members. But, since in the meantime the European Commission exerted pressure that brought a seat in the Council for AJM, for Selmani and his association the law has become acceptable. In this situation the journalists in the Media Council will have 2 representatives – a MAN member representing the will of the majority of journalists in Macedonia, and one of AJM as a result of European pressure”; TV Sitel news, “MAN Supported Laws on Media and Audiovisual Services”, 21 December 2013, available at: <http://www.sitel.com.mk/mk/man-gi-poddrzha-zakonite-za-mediumi-i-audiovizuelni-uslugi>  
Note: This is just one example of the stance that the pro-government media has taken on this issue. Sitel, the most popular TV station, has repeatedly taken biased positions in this regard, constantly reporting in favor of MAN and against AJM. The editor-in-chief of the most popular national private broadcaster TV Sitel is at the same time secretary-general of the Macedonian Association of Journalists-MAN, and editors from this media outlet are on its board and bodies.

## General situation of online media in Macedonia

The Internet and the online media environment have become more vibrant in the past five years, especially since 2011. According to the State Statistical Office's data on Internet penetration in the country, 65% of households have access to the Internet from home and 65.4% of the population between 15 and 74 have used Internet, which is approximately 1,300,000 users.<sup>15</sup> Use of social networking sites has exploded – there are more than 1 million profiles on Facebook – or 1,004,680 people, according to the site, but probably only somewhere between 300,000 and 400,000 individual users. The discrepancy is likely due to some users having several profiles. While Facebook may have an interest in boosting its penetration, research done by MIM and others have documented that, taking into consideration various population statistics, is not very likely that Facebook would have about 1 million Facebook users in a country with only a bit more than 2 million inhabitants, out of which 10 % have emigrated legally in recent years. If we add up the number that have left the country illegally it would mean that almost everyone who is not a child or an old person in Macedonia is on Facebook. Furthermore, 33% of households in the country still do not have Internet access: 2% of these because they live in areas without access to the Internet<sup>16</sup> while 85% say that they do not need the Internet or that they lack skills for using it properly.

As mentioned, there is also the issue that many profiles do not represent actual physical users. Some of these can be attributed to the many companies and private businesses that have created and still maintain individual profiles on Facebook alongside company pages and groups. Also, there is evidence of people opening multiple and false profiles for different reasons, including for purposes of organized political propaganda on Facebook. Political actors extensively use personal profiles. Apart for many using personal FB profiles for their party profiles and 'official profiles' of prominent party members, almost every political party's branch in cities in Macedonia, and even in the neighbourhoods of bigger cities, has a personal profile. Within the supporters of the major parties, organized groups of fake the use of personal profiles for propaganda through posting, commenting and different types of activity on other peoples' profiles, in groups, and on pages have been observed. There are also many examples of admirers or critics of public actors that open fake profiles, where the 'owner' of the profile is in fact a topic of discussion – admiration, or mockery, offensive

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<sup>15</sup> State Statistical Office, available at <http://www.stat.gov.mk/pdf/2013/8.1.13.28.pdf>

<sup>16</sup> State Statistical Office, available at: <http://www.stat.gov.mk/pdf/2013/8.1.13.28.pdf>

language and hate speech. To add to that, there are also many examples of public figures or people who are very active on social networks that, due to Facebook's limitation of profiles to 5,000 friends, have opened a second or third profile. Examples of multiple personal profiles can also be found among media outlets and their separate products; many TV shows, for example, have personal, people's profiles, along with musicians and other artists. Fake profiles are opened also for fun, bearing names of famous historical figures, comic and cartoon heroes, etc.

Besides online outlets of traditional media that are trying to adapt to the digital world, especially national TV stations and newspapers, there is a growing and vibrant scene of web-native media. Although there is still no concrete research in this regard, by looking at available data from aggregators and available audience measurements (Gemius, which measures about 70 Internet media; Alexa; Google Analytics), well over 200 such outlets are able to reach daily audiences of more than 10,000. Most of them deal with entertainment and other types of information, and only perhaps 10 to 15 of the web-native media outlets deal more seriously with political, economic, education and other public interest issues.<sup>17</sup> This fits the global trend of growth mainly in entertainment and tabloid journalism.

Online media are becoming a mainstream source of information, but journalists, experts and more educated and mature audiences often see them as unreliable, as such media sometimes stray far from normal media ethics and proper public discourse and come closer to propaganda and hate speech. Political and ethnic divisions have replicated in the online sphere as well – mostly dominating social networks, but also frequently present in user-generated content and to a certain extent also in content produced by journalists.

Most of the web-native media that produce serious information content have small newsrooms employing mostly two or three people

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<sup>17</sup> The aggregator Time MK, which is considered as the most professional, impartial and experienced in the internet scene, uses as its sources about 151 websites from Macedonia that produce content regularly in the Macedonian language. However, it does not include all relevant websites – such as online versions of some traditional media from the press, radio or broadcasters and websites that operate at local level, popular personal ad sites, etc. Moreover, it does not list most online versions of traditional media and online media in Albanian language (except for national TV Alsat-M's website). Time.mk media source list available at: <http://www.time.mk/s/all>.

- Interview with Igor Trajkovski, owner and editor of Time.mk, November 2013

- "gemiusAudience", reach measurements for November 2013, available at: <http://www.audience.mk/pages/display/reach>

- Also see: Alexa web rankings from Macedonia, available at: <http://www.alexa.com/topsites/countries/MK>

and only in rare cases up to 10 to 15 people. Although there are no public data about this, many employees and representatives of the union of journalists (SSNM) say that they have modest salaries, mostly up to 200 euros a month.<sup>18</sup> As a consequence, the content is often at a low professional level. A lot of content, especially headline news and opinions expressed by prominent public figures, is repeated on several online media, which indicates that sometimes there is an informal politically and/or business motivated cooperation, and that there are relations with certain centres of political and economic power. In addition, online media outlets present much content directly taken from news agencies, which is then repeated over and over again. There is also a great deal of trivia content, which often is illegally translated or lifted from primarily foreign, but also domestic, media, taking advantage of the fact that the Law on Authors' Rights is poorly implemented. Investigative or civic journalism, which can be developed within the online media environment, is almost absent. At a time difficult for media throughout the world, as newsrooms are struggling to survive in difficult economic and political environments, we have seen examples that investigative journalism is supported by and primarily depends on non-governmental organizations and international donors.<sup>19</sup>

Although online media in Macedonia use basic advantages of the internet, such as interactivity and multimedia, there is still no example of a successful hyper-local approach. A large number of websites still do not have mastheads or privacy policies. Frequently there is no information about the owner(s), the editor, or the author of the texts. Often there are no RSS feeds, hyperlinks or tags, or they are used inadequately. Despite the strong development of online media presence by traditional media, there is obviously a lack of strategy in using viral and social media, and the presentation on social networks is merely reduced to copy-pasting links from the website. Newsrooms are still predominantly divided according to platforms and are not integrated; the services offered by online media are at a rudimentary stage, while advertising gradually escapes from what we understand as media to specialized advertising media platforms.

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<sup>18</sup> Interview with Tamara Causidis, president of journalists' union SSNM, November 2013

<sup>19</sup> MIM has for 11 years organized and funded the competition for Best Investigative Story of the Year. Besides MIM, BIRN and SCOOP, two networks of investigative reporters also work in this field. Funds for promoting investigative journalism have also been provided through USAID 1 year organized and funded the competition for Best Investigative Story of the Year. Besides MIM, BIRN and SCOOP, two networks of investigative reporters also work in this field. F

## II. Regulation of hate speech

### 1. The general legal framework

As concluded in the reports of the European Commission in the past several years, obstructions to public debate in Macedonia are largely due to political reasons, rather than to legal norms on restrictions of freedom of expression.<sup>20</sup> The same assessment could also be given in the context of hate speech and the legal environment. There are good legal provisions in place, but there is lack of will (political predominantly, but also among other stakeholders, such as the courts) to implement the laws in a just and non-selective manner.

#### *International conventions and the Constitution*

Macedonia is a signatory to the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the document is thus directly applicable in the country. In accordance with Article 118 of the Constitution, the international agreements ratified in accordance with the Constitution are part of the internal legal order and cannot be changed by law. Hence, Article 10 of the European Convention and other international standards ratified by the Parliament are directly applicable in the country. The fundamental right to freedom of expression and its possible restrictions are prescribed by the Constitution, as by other laws, which directly or indirectly regulate certain fields. Freedom of the press and expression is guaranteed, as well as the right of reply and correction, and censorship is explicitly prohibited (Article 16):

The freedom of personal conviction, conscience, thought and public expression of thought is guaranteed. The freedom of speech, public address, public information and the establishment of institutions for public information is guaranteed. Free access to information and the freedom of reception and transmission of information are guaranteed. The right of reply via the mass media is guaranteed. The right to a correction in the mass media is guaranteed. The right to protect a source of information in the mass media is guaranteed. Censorship is prohibited.

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<sup>20</sup> Macedonian Institute for Media, cedonian Institute for Medias, president of journalists' union SSNM, No, 2012, pg. 31, available at [http://mim.org.mk/index.php?option=com\\_k2&view=item&id=408:analiza-za-razvojot-na-mediumite&Itemid=61&lang=en](http://mim.org.mk/index.php?option=com_k2&view=item&id=408:analiza-za-razvojot-na-mediumite&Itemid=61&lang=en)



In line with the Constitution, the freedoms and rights of the individual can be restricted during states of war or emergency; however, the restriction of freedoms and rights cannot discriminate on grounds of sex, race, skin color, language, religion, national or social origin, property or social status (Article 54):

The freedoms and rights of the individual and citizen can be restricted only in cases determined by the Constitution. The freedoms and rights of the individual and citizen can be restricted during states of war or emergency, in accordance with the provisions of the Constitution. The restriction of freedoms and rights cannot discriminate on grounds of sex, race, color of skin, language, religion, national or social origin, property or social status. The restriction of freedoms and rights cannot be applied to the right to life, the interdiction of torture, inhuman and humiliating conduct and punishment, the legal determination of punishable offences and sentences, as well as to the freedom of personal conviction, conscience, thought and religious confession.

### *The Criminal Code*

The Criminal Code envisages under several articles punishment for the instigation of violent change to the constitutional system (Article 318), hate speech (Article 319, 417), and punishment against a person who by means of an information system publicly negates, grossly minimizes, or approves or justifies a genocide, crimes against humanity or military crimes (Article 407-a). The law additionally prescribes restrictions to “the person who exposes another person to mockery through an information system, because of his or her membership in a group of a different race, skin color, nationality or ethnic origin, or will expose to mockery the entire group of people who have such characteristics, shall be punished with a fine or imprisonment of up to one year” (amendments to the Criminal Code from 2009, Article 173).

It is also important to note that the 2009 amendments included new provisions on sentencing. A new circumstance is prescribed, which the court should consider when determining a sentence (Article 39 paragraph 5), saying that while determining the sentence, the court will specifically consider measuring the magnitude, and whether the offence was committed against a person or a group of persons or property, directly or indirectly, due to his or their national and social origin, political and religious beliefs, property and social status, gender, race or skin color. According to prominent legal experts, the purpose of the legislator is clear: committing the offence

regardless of which circumstances, on such a discriminatory basis, should be accepted as an aggravating circumstance when determining the sentence. It is a circumstance that should result in a penalty that is closer to the maximum punishment prescribed for the offence, rather than to its minimum.<sup>21</sup>

However, when it comes to making the final step, it seems that the country again lacks proper and non-selective implementation of the legislation. Even though hate speech is outlawed in the Criminal Code, there is a lot of hate speech present in media, which sometimes has serious consequences, and the Macedonian courts still have not found any person guilty for such an act. Also, other competent authorities such as the Ministry of Interior and the Public Prosecutor have not taken the initiative to file charges on hate speech. The only case in which criminal charges of inciting national, racial or religious hatred (Article 319 CC) have been raised is a case of burning the Macedonian flag in a village near Struga in January 2012, which was a part of a chain of events (Vevcani Carnival and mockery of the Koran, burning of the Macedonian flag and churches, ethnic hate during matches of the Macedonian national teams, Gostivar and Smiljkovci murders) and which will be explained in more detail in the case studies below.

#### *Law for Prevention of Violence and Misconduct in Sports Competitions*

Nationalism in sports arenas is still one of the most powerful igniters of inter-religious and inter-ethnic hatred in Macedonia. There have been only mild efforts in bringing criminal or misdemeanour proceedings against the organizers and fans at sports events, which have exploded in hate speech and calls for violence, with fan groups calling for “destruction” or “death” of the other side. For behaviour such as burning flags, singing offensive songs, shouting offensive slogans that promote hatred or violence based on race, nationality or religious affiliation, or other grounds, the Law for Prevention of Violence and Misconduct in Sports Competitions prescribes sanctions (articles 13 and 14). In this regard, action was recently taken by the Football Federation of Macedonia (FFM) at a cup final between two rival teams from Tetovo, which, as in many cases when ethnic Macedonian and Albanian fans confront each other, erupted in nationalism and hate speech. FFM issued new instructions in such cases to stop games at the moment when this starts happening. FFM decided to have the rematch of the game without any fans

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<sup>21</sup> Акад.Владо Камбовски, д-р Мирјана Лазарова Трајковска “Правна.Владо Камбовски, д-р на казненоото дело на омраза и говорот на омраза” (Acad. Vlado Kambovski, Mirjana Lazarova Trajkovska Ph.D, аза и говорот на омраза” (t-na-mediumite&Itemid=61&lang=end=61&lang=en” aslado Kambovski, Mihttp://www.znm.org.mk/drupal-7.7/sites/default/files/Legal%20analysis%20on%20bias%20crimes%20and%20hate%20speech\_MK.pdf

in the stadium. As many times in the past, the Ministry of Interior promised that it would take more decisive steps to find and punish the perpetrators. Yet besides many declarative intentions, there is still an impression that the institutions ignore such behaviour.

### *The Law on Prevention and Protection from Discrimination*

In this context, it is also important to note that the basis for developing a legal concept of hate speech also lies in the Law on Prevention and Protection from Discrimination, which was introduced in the Macedonian legal system in 2010. In its principles (Article 3), the law prohibits any direct or indirect discrimination, reference to and incitement of discrimination, and aid of discriminatory treatment. The law defines as discriminatory behaviour and actions (Article 5, item 4) any active or passive behaviour of any person, public authority, legal entity and individual from private and public life, which creates a basis for privileging or de-privileging a person in an unjustified manner, or which exposes a person to an unjust and degrading treatment in comparison with others in a similar situation, based on any of the discriminatory grounds. This law also identifies humiliating treatment as a form of discrimination and harassment, defined in Article 7 as a violation of the dignity of a person or group of persons arising from a discriminatory basis, which has the purpose or result of violating the dignity of a certain person by creating or threatening with hostile, humiliating or intimidating environment, approach or practice. The law also explicitly points to calling for and encouraging discrimination (Article 9) and says that discrimination will be considered to be any activity by which a person directly or indirectly invites, encourages, instructs or encourages another person to perform discrimination.

The Commission on Prevention of Discrimination (Article 24) has jurisdiction to treat complaints regarding discrimination cases and take initiatives for processing them to competent authorities for violation of the law. The law provides for judicial remedy, and any person who thinks that the law has been violated because of discrimination can file a case before the competent court (Art. 34, etc.). Legal responsibility is also foreseen for offences that refer to or encourage discrimination and assist discriminatory treatment based on discriminatory grounds (Art. 42), for infringing on the dignity of a person or for establishing a threatening, hostile, humiliating or intimidating environment, approach or practice (Art. 43). In May 2013, the commission publicly released statistics on the complaints received for discrimination in all areas. Eight of the complaints by citizens concerned media outlets, which were all rejected by the commission, and there were no court cases against media on these grounds.

## 2. Media specific regulations

### *Broadcasting law (for traditional TV and radio)*

Under the 2005 Broadcasting Law (last amended in 2011, Art. 69,)<sup>22</sup> the Broadcasting Council, which is the regulatory body for broadcast media, is authorized to prohibit programming content that incites national, racial or religious hatred and intolerance:

In the broadcasters' programmes, as well as in programmes retransmitted through public communication networks, programmes that are directed to violent overthrow of the constitutional order of the Republic of Macedonia or encouragement or incitement to military aggression or stirring of national, racial, sexual or religious hatred and intolerance, are not allowed.

This law also includes a provision on legal fines and sanctions on the responsible persons and editors for content that aims at encouraging national, racial, gender and religious hatred in broadcast programmes (Article 166, paragraph 10).

In current practice, despite the frequent airing of content that implicitly or explicitly incited hatred, the council has not yet used the sanction of prohibition against broadcasters. Soft measures like written warnings and temporary bans, which are provided for in the law (Article 38 paragraph 1), have been used only twice by the council (informal warnings to TV Sitel and public service MTV). The council also once banned the broadcasting of an advertisement for two days (Kanal5 for hate speech on Milenko Nedelkovski show).

### *Internet regulation*

No specific legal provisions govern the internet in Macedonia; therefore there are also no specific restrictions on hate speech on the internet.

The only regulation that refers specifically to this area is the general provision in the Criminal Code, which prescribes punishment for hate speech through computer systems (Article 394). Pursuant to this provision, the person who exposes another person to mockery through information systems, because of his or her membership in a group of a different race, skin color, nationality or ethnic origin, or will expose to mockery an entire

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<sup>22</sup> This law and media regulation has been changed in Macedonia with the adoption of two new laws – the Law on Media, and the Law on Audio and Audiovisual Services, passed on 25 December 2013. There are no sanctions on hate speech in the new media laws.

group of people who have such characteristics, shall be punished with a fine or imprisonment of up to one year (amendments to the Criminal Code from 2009, Article 173).

### **3. Media self-regulatory framework**

#### *Self-regulatory mechanisms and bodies*

The Council of Honor of the AJM, which can only issue moral sanctions (through public statements), and the Code of Conduct, both adopted and enacted within AJM in 2001 with the wide support of the media community, are currently the only active self-regulatory mechanisms for media in the country. Their primary task is to protect and to promote ethical principles, criteria and standards of professional and responsible journalism, as stipulated in the Code of Ethics of Journalists of Macedonia. The code refers specifically to hate speech in its Article 10:

“The journalists shall not consciously create or process information that jeopardizes human rights and freedoms, shall not use hate speech and shall not encourage discrimination of any sort (due to nationality, religion, sex, social class, language, sexual orientation, political orientation).”

Also, Article 11 states that, “the journalist shall observe the general social standards of decency and shall respect the ethnic, cultural and religious differences in the Republic of Macedonia.”

As the years have passed, the work of the Council of Honor has improved, and the limits to its success can be attributed to political divisions among journalists, limited resources for working on breach of ethics cases, and lack of partnerships with other media actors, such as media executives, representatives of civil society and experts in media ethics.

The Council has made several decisions that found media breaching the code’s Article 10. One example was the case of TV Sitel in 2010, which had titled a TV piece in the main newscast that reported on asylum seekers (predominantly Roma and Albanian) returning from EU countries, as “Lassie returns home”.<sup>23</sup>

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<sup>23</sup> “The Council of Honor considers that this kind of informing by Sitel is a violation of the Code of Journalists of Macedonia. Article 10 of the code requires journalists to create and process information that does not jeopardize human rights and freedoms, and not to use a language of hate and not to encourage violence and discrimination on any grounds. The Council of Honor cannot see any public interest in the announcement ‘Lassie returns home’ in which asylum seekers are compared to animals. Connecting the fate of the dog Lassie with the fate of asylum seekers is contrary to journalistic ethics and offends the feelings of these people,” notes the decision of the Council of Honor, published on 24 March 24 2010.

Self-regulation has been more prominent on the agenda of the media community for the last two years. AJM and MIM are the most active organizations in this area. In 2010, AJM initiated the formation of the Council of Ethics in Media, a tripartite self-regulatory body composed of representatives of editors and journalists, media owners, and representatives of civil society in Macedonia. Throughout 2012, AJM had held consultations with a number of editors and media owners and with its membership about the importance of self-regulation and the different models that could be applied in Macedonia. At the end of the year, AJM and MIM started a project to seek support for the establishment of the Council of Ethics in Media, which would include not only print but also broadcast and online media. As part of the project, consultations with the media community intensified across the country. A working group, consisting of representatives of journalists, editors and media owners, was established to lead the project and draft internal procedures for the functioning of the Council of Ethics. Closer cooperation was also established with the Press Council of Kosovo. The Council of Ethics in Macedonia was recently formalized as an organization and its managing bodies were constituted. It now works on forming its most critical body, the council that will handle complaints.

### **III. Extent and nature of hate speech in online media**

**M**ainstream media mostly refrain from open hate speech. Such speech is seldom explicit, but appears often in hidden forms, combined with information from unidentified sources that are offered as facts, name calling, defamation and slander. Implicit hate speech is not a regular practice, although it appears frequently in some media outlets, but is increasingly present on the internet. Most of the public, including the educated part, doesn't know the real meaning and definition of hate speech, and often confuses it with other forms of offences through public communication, defamation and slander, for example. Hate speech is indeed not easy to identify and frequently representatives of governing structures in particular claim that hate speech is used when they are criticized by opposition or civil activists, who indeed sometimes use harsh, but allowable public language that falls under the ultimate and most valuable freedom, the freedom of speech.

Some of the trends that can be detected are:

- The analysis and reports of the School of Journalism and Public

Relations (SJPR)<sup>24</sup> showed that in most cases when hate speech or inflammatory speech in the media is identified it is related to quoted statements of politicians, columnists and other opinion-makers in Macedonia.

- In the context of ethnic/religious negative stereotyping of “the Other”, as detected by the SJPR,<sup>25</sup> a major problem in the reporting of numerous media are texts that are just copied from other media or social networks, consisting of unconfirmed information on sensitive inter-ethnic issues. The practice of so-called “copy-paste journalism” is particularly dangerous at a time when unchecked information creates negative stereotypes of ethnic groups, which may further deepen inter-ethnic tensions in the Macedonian society. In addition, by just copying speeches by politicians during the election campaigns, in which politicians accuse each other of being “traitors” to their ethnic group, media outlets risk falling into the trap of uncritically spreading negative stereotyping on ethnic grounds.<sup>26</sup>
- Hate and inflammatory speech against sexual minorities as groups or as individuals has continued in several media outlets that already had this kind of editorial practice. Negative portrayal of sexual

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<sup>24</sup> School of Journalism and Public Relations (SJPR) First and Second Report From the Watchdog Mechanism of the Media Reporting at the UNESCO Chair on Media, Dialogue and Mutual Understanding

<sup>25</sup> SJPR First and Second Report From the Watchdog Mechanism of the Media Reporting at the UNESCO Chair on Media, Dialogue and Mutual Understanding

<sup>26</sup> For example, see the speech of Prime Minister Gruevski during the campaign on local elections 2013, directed at the ex-president and prime minister of Macedonia and leader of opposition SDSM, Branko Crvenkovski, available at: <http://www.youtube.com/watch?v=ZwMa9yM2yAo>. “When I just thought that at least a day will pass when we will speak amongst each-other only about projects, about what we have done and what we will do in the cities and in the villages, here comes the most famous Greek -- we will not mention him, and leave him alone to bother with himself -- yesterday, the man spoke. And now, even If you don’t want to, one must comment that our most famous Greek caught himself in a lie. When he saw that the entire international community has publicly denied and told that there is no agreement on early elections, the Greek sat, he thought and he thought, and he decided to forget about the theme of early elections and he said: my dears, just forget what I have told you before, now you should know that we are doing this on purpose, because Gruevski is going to change the name in June. A new theory. Until yesterday it was another theory, it didn’t pass, so, as of last night, there’s a new theory. Imagine, he thought and he thought, and this is what he came up with. God save us. And how can a man not be happy in responding to this new lie, when the Greek Branko himself knows that Nikola Gruevski is not like him? Branko changed the name and he lied to us that the shameful reference ‘the Former Yugoslav Republic of Macedonia’ would last two months, three at most. And not two or three months, twenty years have passed dear friends, and still, wherever we go in the world, this reference still lasts, and we are being embarrassed. Still, throughout the world, in every multilateral organization, and in many bilateral contacts, because of Greek Branko’s mind, we are being called FYROM.”

minorities in the media also occurs through the statements of politicians, including prominent members of the ruling party from the Government and the Parliament. For instance, in the debate about changes to the law on abortion, several politicians tried to turn the discussion towards a debate on gay marriage. Statements were often used not only to stigmatize, but also to accuse opposition parties as well as NGOs of working for the “gay marriage” agenda.<sup>27</sup>

- Perhaps the most common pattern for producing content that promotes hatred and discrimination is the use of editorial tools, such as headlines, choice of photographs and other visual content, and heavy ethnocentric/nationalist/homophobic wording in which “the Other” is presented as bad and against “us” and everything that “we” believe in.
- User-generated content, especially on social networks (political discussions are amongst the most dominant on Facebook, but also on Twitter), YouTube, and online forums is flooded with hate speech. There is a lot of anonymity in this cyber hatred, but also open hate speech and negative stereotyping on profiles of prominent public figures, including journalists and politicians, who allow their followers to use improper language and do not hesitate to use it themselves.

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<sup>27</sup> “Certain circles in SDSM, including NGOs that are part of SDSM, are working on the agenda of gay marriages” statement of Vlatko Gjorcev, MP of VMRO – DPMNE, *Telegraf.mk*, “Gjorcev: there is a gay marriage agenda in Macedonia”, 16 September 2013, available at: <http://www.telegraf.mk/aktuelno/makedonija/37134-vlatko-gjorcev-vo-makedonija-ima-agenda-za-homoseksualni-brakovi>  
“I want you to tell me whether you are for homosexual marriages. Each and every one of you coming from NGOs, I want you to tell me whether you support this. I will tell you, I am not for homosexual marriages. Nikola Todorov is against same sex marriages,” said the minister while defending the liberality of the proposed law. This stance of the minister is illogical and inadequate when there is a discussion on a law that refers to the right to abortion. It is unclear why Todorov had the need to mention homosexual rights in a moment when a concrete debate is on the rights of women to make their own choices, and why should homosexuals be concerned with this issue” - Plusinfo; “Minister Todorov States: I’m Not For Homosexual Marriages”, 6 June 2013, available at: <http://www.plusinfo.mk/vest/94752/Ministerot-Todorov-se-izjasni-jas-ne-sum-za-homoseksualni-brakovi>  
“For VMRO-DPMNE, marriage is a union between a man and a woman, and concessions on this matter will not be made, as long as the party is in power,” said today the minister Spiro Ristovski. ‘I do not want even to discuss the issue of same-sex couples being allowed to adopt children, because I believe that a child should be developed properly, and grow and be cultivated in a marriage where you have a mother and father in the real and biological form of these words,’s the minister added.” - Press 24: “Ristovski: Concluding Homosexual Marriages Will Not Be Allowed In Macedonia”, 12 October 2012, available at: <http://star.press24.mk/story/spiro-ristovski/ristovski-nema-da-se-dozvoli-skluchuvanje-na-homoseksualni-brakovi-vo-makedoni>



## 1. Reporting on minorities

There are several examples of how the negative portrayal of a certain ethnic group or minority is constructed in the media. Usually, the article portrays “the Other” as someone endangering “us” and “our” way of life.

### *Case study: “Albanians are preparing for ethnic cleansing”*

One of the most recent examples can be observed in *Vecer* daily edition of 7 February 2013. In an article with the headline: “Albanians prepare for ethnic cleansing”, anonymous sources from a Serbian media outlet are used: “In a secret report to the Security Information Agency (BIA), which is submitted to the state leadership of Serbia, it is stated that terrorists intend to participate in the bombing of civilian facilities in towns and villages where Serbs live in order for them to be exposed to fear and panic,” *Vecer* writes. The articles 1 and 10 from the Ethical Code seem to be violated in this article. The news is presented without checking the reliability and the facts of the information. *Vecer* simply transmits speculations of media in Kosovo, but this fact was not underlined in the headline of the article. This can mislead the reader, giving the perception that the news is about Macedonia. A negative generalization of an ethnic group is used in the headline as well (“Albanians prepare for ethnic cleansing”), giving no further precise details. This leaves the impression that all Albanians will participate in the actions suggested. The statements that follow do not support the headline. The information is not confirmed from official sources in Kosovo, and the only official source from the Ministry for Internal Affairs of Kosovo denies the information.

### *Case study “Roma are asked not to do Gypsy things”*

There are several examples of negative speech towards Roma from the recent past, for example the article published in *Vecer* under the headline “A juvenile killed his friend for a pack of cigarettes” and “Roma are asked not to do Gypsy things” from 25 October 2008, which speaks of the case of a juvenile and his older friend killing a person who had just returned from working in Germany to the Roma settlement of Shutka.<sup>28</sup>

It is interesting to observe that just some months earlier, on 16 June 2008, the same newspaper used the same title (“Roma are asked not to do Gypsy things”), but with a different subtitle (“The green areas around the main square become a place for picnic, the authorities still asleep”). The

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<sup>28</sup> <http://www.vecer.com.mk/?ItemID=88802135584FD245B9CFC4A1F1CADD27>

article writes about Roma who have been using the green areas around the main city square, which has bothered the neighbourhood. “Scattered bags, paper, cardboard and old clothes. Whole families laying on blankets on the grass. One is resting, another sleeps, the third dines, and the fourth cools off or drinks water from an open hydrant in the park. And all this happens in the central square of our metropolis,” the article’s opening paragraph notes. The newspaper further quotes anonymous statements by citizens who live in the area. “City parks and lawns are not picnic areas, so that you could put blankets and prepare feasts. On the other side, piles of garbage remain. A while ago we saw a few tourists who commented something between them and the expression on their face certainly was nothing commendable. It is strange that no duty crews of public enterprises have warned these Roma families that it is wrong to make picnics on the lawn, even in the city centre, and scattering garbage everywhere,’ react the revolted citizens,”<sup>29</sup> according to the newspaper.

Besides the use of the word “Gypsies” (Cigani), which is considered offensive and the negative and stereotypical pictures of Roma offered in the articles (criminals who kill for packs of cigarettes, dirty people who picnic in the middle of the city throwing garbage all over), in both articles, the position of Roma people is not represented at all.

*Case study: “Macedonians in panic because of Albanians’ population growth”*

In a multi-ethnic context, the issue of the growth in population has often been used for intimidating citizens from the “ethnic Other.” Macedonian media have used this issue to frighten ethnic-Macedonians that because of the higher mortality rate among them and a higher birth rate among ethnic-Albanians, they might soon lose the majority in “their own country.” On the other hand, Albanian language media say that because of these demographic trends “Macedonians are in panic,” justifying this with the prominence given to the “worrying” statistical data found in Macedonian-language media and by ethnic-Macedonian politicians. Using such improper generalizations is an often-seen pattern and a base for constructing inflammatory speech and hate speech.<sup>30</sup>

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<sup>29</sup> Vecer: [cer://www.vecer.com.mk/?ItemID=88802135584FD245B9CFC4A1F1CADD27c4a1f1c](http://www.vecer.com.mk/?ItemID=88802135584FD245B9CFC4A1F1CADD27c4a1f1c)<http://217.16.95.55/default.asp?ItemID=DAB12A4FF4AB06448ECDADBFC57A4E96>

<sup>30</sup> *Tetova Sot*: “Macedonians are in panic because of Albanians’ growth”, 2 July 2013, available at: <http://www.tetovasot.com/maqedonasit-ne-panik-nga-shtimi-i-shqiptareve/>

*Case study: "Macedonians severely beat Albanians again in Skopje"*

Whenever incidents or fights between different ethnic groups occur, most media in Albanian or Macedonian language take ethnocentric positions, reporting on the events from the perspective of a collective victim or violator. The incident that occurred recently with the anti-gay protests in Skopje in late June 2013 is only one out of the many examples in this context. Violent anti-gay protesters attacked several young boys of ethnic-Albanian origin near the main square and beat them up severely. Most Macedonian language media ignored the event, while Albanian language media covered it extensively, often using the generalization of "Macedonians beating Albanian kids."<sup>31</sup>

*Case study: "Which journalist should interview the prime minister without panties?"*

There are several examples of offending portrayals of sexual minorities. In a TV celebrity pop-show in Serbia, "Mission impossible", the show host appeared on the interview with Serbian Prime Minister Ivica Dacic without wearing any underwear. During the following days, in particular on 30 January 2013, the online edition of the daily *Vest* seized upon this trivial event and published an article/survey with a single question: "Which journalist should interview Gruevski without panties?" asking its readers to choose among 10 prominent women presenters and journalists and vote. However, a day after the publication of the survey, the editorial board of *Vest* decided to withdraw the online survey because of "unexpected pressure". According to information published in other media, the pressures came from an editor of a national TV station/newspaper, who was listed in the survey. The next day, on 31 January, the *Vecer daily* (its editor-in-chief Ivona Talevska was one of the 10 journalists mentioned in the survey of *Vest*) published an article with a headline "Are there homosexuals among journalists?!" as a response to *Vest's* survey. The article said: "We invite our readers to point out names of journalists of whom such phenomena were noticed and eventually point out their experiences to us. To start, we point to ..." In addition, the names and photographs of three journalists and anchors were exposed by the newspaper. One of them was *Vest's* editor-in-chief.

While it can be argued that *Vest* used improper language and applied a sexist attitude towards female journalists and anchors in its survey, for the newspaper *Vecer*, the content can be viewed in the context of violating Article 10 of the Code of Ethics, because it used homosexuality as a pre-

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<sup>31</sup> ShqipMedia: "Macedonians again beat severely Albanians in Skopje - VIDEO", 23 June 2013, available at: <http://shqipmedia.com/portal/maqedonasit-perseri-rrahin-keq-shqiptaret-ne-shkup-video/>

given negative characteristic by publicly accusing individual journalists of being homosexuals. In addition, it can be considered that both dailies broke Article 16 of the Code, which stipulates that, “the journalists will defend the reputation and dignity of their profession, foster mutual solidarity and diversity of opinions and will not use the medium to for personal vendetta of other persons, including his colleagues.” Also *Vecer’s* article can be seen as a violation of Article 7 from the Code, which states that, “a journalist shall respect the privacy of every person, except in cases when that is contrary with public interest.”

*Case study: “Including sexual orientation as ground for discrimination in the law or proposed resolution to condemn hate-speech in Parliament – does this mean legalizing gay marriage?”*

Another case relates to the public discussion between human rights activists and NGOs protecting marginalized groups from hate speech and discrimination on the one hand, and the government, politicians from the ruling party and pro-government media on the other hand. Civil society activists have criticized public institutions for not explicitly mentioning sexual orientation as one of the grounds for discrimination in the Anti-Discrimination Law. In September and October 2012, the activists campaigned and lobbied for the adoption of a declaration in the Macedonian Parliament against hate speech, which was proposed by the head of the Liberal Party, an opposition MP, in the summer of 2012. However, in September 2012, the attempt to put the declaration for discussion at the plenary session of the Parliament was rejected by the majority of MPs.<sup>32</sup> The argument of the government and of the media to oppose the civil activists was that they demanded the “legalization of gay marriage”, which is actually not true since this is regulated in another law, the Law on Family. In a series of articles published in October 2012, several media outlets that have had a longstanding homophobic editorial practice such as *Vecer* or *Sitel* used very offensive language and photos to “prove” their point. “There won’t be gay marriages in Macedonia,”<sup>33</sup> and

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<sup>32</sup> (PROPOSER: Ivon Velickovski proposal-Declaration for Condemning Hate Speech), July 2012, downloadable at: <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CCoQFjAB&url=http%3A%2F%2Fwww.sobranie.mk%2Fext%2Fexporteddocumentdownloadwindow.aspx%3Fid%3D5a6a0d1b-b1ef-4d7f-bf0d-f4621d66be06%26t%3Ddocx&ei=0-boUpmFDMfRtQaqlCYCA&usg=AFQjCNEy1wiGRpBYllJqRvFclIKd1lvag&bvm=bv.60157871.d.Yms&cad=rja>  
Also see: Liberal Party: “The Parliament Refuses to Put on Daily Agenda Declaration for Condemning Hate Speech”, 10 September 2012, available at: <http://www.lp.org.mk/?p=2787>

<sup>33</sup> Daily Vecer, 13 October 2012, available at: <http://www.vecer.com.mk/?ItemID=60ECE-6CBC658784090C533512C94CFE5>

“We want nephews, not gay things,”<sup>34</sup> were the headlines of the some of the articles that appeared in *Vecer*, which used explicit photographs and hate language towards the gay minority. The whole discussion is described in more detail in a short 15-minute video-documentary “Homophobia in the media” produced by the NGO Coalition for Sexual and Health Rights of the Marginalized Communities.<sup>35</sup>

## 2. Reporting on interethnic and inter-religious tensions

### *Case study: The Vevcani Carnival and consecutive events*

The Vevcani Carnival (an old tradition of the Vevcani village in the Struga region) was held on 13 and 14 January 2012. During the events, a masked group consisting of six covered women praying at a large male organ and a Muslim minister appeared walking with the Koran. Representatives of the Islamic religious community and part of the political establishment considered the parade offensive for the Muslim population of Macedonia. Some days after this incident, on 23 January, a resident of the Struga village Sum, Minir Ismaili, burned the Macedonian flag in front of the municipal building in Struga, protesting against what he saw as the “systematic offending of the Albanians” at the European Championship in Handball, which was held in Serbia between 15 and 29 January. Several days after the Macedonian flag was burned in front of the Municipality of Struga, demonstrations were organized in this city on 27 January where the Head Mufti, Ferat Polisi, and the Mayor of the Municipality, Ramiz Merko, addressed local citizens. They announced that the demonstration was organized because of the “offences against the Muslims in Macedonia with the carnival masks in Vevcani”. After this event, offensive graffiti was written on several churches and mosques in the region, and there were attempts to set fire to religious buildings, for example the churches in Labunista and Mala Recica. The impact of these events in the media lasted for several days, with many media outlets being preoccupied and producing much content connected to the carnival and its aftermath, or to the subsequent events described in the case studies below.

A research based on the monitoring of 25 media outlets on the internet resulted in a qualitative discourse analysis carried out by the SJPR on the i Chair in Media, Dialogue and Mutual Understanding, which documented

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<sup>34</sup> “Vecer”, 13 October 2012, available at: <http://www.vecer.com.mk/default.asp?ItemID=6E9C68218598FF448F0D5B71005FD3A7>

<sup>35</sup> “Homophobia in the media”, version with English subtitles available at: [http://www.youtube.com/watch?v=VHSTEIG\\_SFU](http://www.youtube.com/watch?v=VHSTEIG_SFU)

offensive, ethnocentric and inflammatory approaches in the discourses of journalistic texts, which were published following the events.

The following findings were highlighted in the research:

- Stereotyping or discriminatory reporting was noticed in the content of online media, mainly through “generalization strategies”, which identify the behaviour of an individual or a small group of members of a particular ethnic or religious community with the characteristics of the whole community.
- There is a dominant practice in the analysed reporting to directly quote the “institutional” sources of information, for example press releases, without any critical validation and contextualization and not to offer space for different narratives, which refer to the event reported. It may lead to one-dimensional and non-critical journalism without challenging the dominant narratives often imposed by the elite with easy access to the media. In cases when this “discourse of the elite” creates a stereotyped image of the “Other”, the media participates in the reproduction of this stereotype.
- There is an inconsistency observed in some of the analysed articles in regard to the respect of standards for accurate, factual and precise reporting. The online media do not use precise sources and are not signed by the authors.<sup>36</sup>

#### *Case study: The Smiljkovci case and subsequent events*

Another case study that was monitored by the SJPR was on the reporting of the killing of five young people near Smiljkovci. Late in the evening of 12 April 2012, police found five murdered individuals near Zelezarsko Lake near the Skopje village of Smiljkovci. Four of them were young residents of Radisani and the fifth was a resident of Cresovo – both villages situated near Skopje. The murder sparked a strong reaction among a part of the citizens, mainly from the areas from which the killed persons originated. In a sign of revolt, residents of these areas protested by blocking the roads leading to their villages. Smaller incidents were caused during the protests, during which some local property was destroyed. Major protests were held in Skopje on 16 April, and one of them turned violent, resulting in injuries of passers-by, and of several detained people who were suspected of participating in the violence.

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<sup>36</sup> SJPR, Summary of the qualitative analysis of the media reporting on interethnic and inter-religious issues in the Republic of Macedonia, pg 5, pg 7, SJPR research studies available at: [http://vs.edu.mk/index.php?option=com\\_content&view=category&layout=blog&id=102&Itemid=170&lang=mk](http://vs.edu.mk/index.php?option=com_content&view=category&layout=blog&id=102&Itemid=170&lang=mk) .

Nationalistic slogans were used against ethnic Albanians in part of the protests that turned violent.

The security forces detained 20 people suspected of links with the fivefold murder on 1 May. According to the police, the suspects allegedly belonged to a “radical Islamist group.” Some were held in custody and faced charges. The rest of them were released. The services reported that they were looking for two further suspects who had escaped.

The arrest sparked outrage among some citizens, predominantly Albanians and Muslims in Skopje, who consequently organized protests on 4 May. The reason for this revolt, according to most of the sources, was the manner in which the procedure was being led and the manner in which the suspects were convicted as killers in advance. Additionally, the protest was provoked by the charges of the alleged involvement of the suspects in “radical Islamic” groups. Smaller incidents also took place during the protests, among them minor damage to the municipal building in Cair.

The SJPR experts presented their findings on the basis of a content analysis of 24 media outlets, which showed how the disrespect of several ethical standards in the media led to very serious confrontations in society, such as violent protests, fights between citizens of different ethnic or religious communities, damaging sacral objects, and burning of flags.<sup>37</sup>

#### *Case study: 13-14 April 2012 (murder and blockades)*

In some online media, the identification of the ethnic background of the murdered persons was made, thus providing an interethnic context to the event in advance and offering a wider space for interpretations according to which the violence was ethnically motivated. With the ethnicity of the victims listed and accompanied with the frequent use of phrases such as “heinous murder”, “brutally shot and killed”, “bloody crime”, “massive killing”, the reporting was infused with strong ethnic undertones. A narrative linkage made in some of the articles between the murder and the Easter holidays enhanced this bias. This practice is potentially inflammatory because it may give the impression of a national threat coming from the implicit Other, and, at the same time, constructs narratives of collective victimization of the ethnic group to which the victims belonged, as well as a potential collective guilt of the ethnic or religious Other in the society. Still, there were also

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<sup>37</sup> SJPR, Qualitative analysis of the media reporting on interethnic and inter-religious issues in the Republic of Macedonia – the professional standards through the prism of a discursive analysis: Media narratives in the reporting on the murder in Smilkovci”, SJPR research studies available at: [http://vs.edu.mk/index.php?option=com\\_content&view=category&layout=blog&id=102&Itemid=170&lang=mk](http://vs.edu.mk/index.php?option=com_content&view=category&layout=blog&id=102&Itemid=170&lang=mk)

several online media that refrained from mentioning the ethnicity of the victims and of those involved in the murder. However the “copy-paste” and “reactive” journalism was observed to be a real problem, especially in the online media whose reporting is frequently composed of copying statements or other texts from a third party.<sup>38</sup>

*Case study: 16-17 April 2012 (protests and riots against the murders)*

Professional principles were also violated by the direct and uncritical transmission of offensive slogans against ethnic Albanians. Such violations were mainly found in local media. There was a frequent use of speculative content for the murder used at this point in time, by transferring the coverage of the media in the region and abroad. But they rarely challenged national media. Putting the incidents into the context of memories and similar outbursts of anger during the 2001 conflict, the whole coverage was aggravated in a way that could lead to possible new interethnic conflicts.

*Case study: 1-2 May 2012 (detention of suspects)*

The most serious violation of professional standards in the online media, as in other media, was the disrespect of the right to the presumption of innocence. Most media used terms for the detained as definitive perpetrators of the murder. The framing of the murder and the arrest of suspects was done within the paradigm of “radical Islam” and of Christianity as a “sacrificial model” upon which the evil was projected. Some online media carelessly and uncritically passed on statements from institutional sources reproducing the dangerous thesis that Islam regardless of the marker “radical” is inherently violent, leading to possible further interethnic and the inter-religious relations in the country.

*Case study: 4 May 2013 (protests against actions of the Ministry of the Interior)*

Unfortunately, even government ministries did not pay sufficient respect to the presumption of innocence in their statements, and the personal identities of the detained were disclosed. There was a lot of one-sided reporting on the protests, and there were cases in which the slogans from the protests were selectively presented, therefore framing the protest in one of three contexts: religious, ethnic or political. Some

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<sup>38</sup> The SJPR analysis notes that about 90% of news reporting in the media consists of uncritical transfer of statements of public actors, even in cases when such statements are inflammatory or incite hatred.



media selectively presented and overemphasized particular statements or facts, in order to present the protests as part of a movement of radical Islamic structures representing threats to the country, the region and beyond. Particular media explained the motives for organizing of the protests through unchecked information and selective statements of the participants at the event, out of which generalizations were made on the motives and the stances of all participants.<sup>39</sup>

#### **IV. Measures taken by media to address online hate speech**

**A**s noted earlier, hate speech, both explicit and implicit, is most present in social networks and user-generated content. The reasons for the frequent presence of hate speech on these two platforms are not technical, but are a consequence of poor economic conditions, understaffing and lack of financial resources; lack of journalistic professionalism and education; and to a certain extent, lack of will in internet media newsrooms to devote more attention to this issue.

Anonymous hate and inflammatory speech is especially widespread on social networks. It is clearly visible on Facebook, where hate speech is omnipresent. Numerous examples can be found on fan pages of the popular TV hosts and journalists Janko Ilkovski, Sashe Ivanovski, owner and editor of the website Maktel, and Milenko Nedelkovski. Nedelkovski, whose hate speech on his show on TV Kanal 5 has been condemned by the Broadcasting Council, became a hot topic in the online media several times. Once, for example, this was for stating on his Facebook fan page that he “multiplies the Shiptars with zero” (Shiptar is considered to be an offensive word for naming the ethnic Albanians).<sup>40</sup> He also expresses his direct hostility towards certain public figures and politicians, and repeatedly calls them with different indecent names. For example, the journalist Meri Jordanovska was called “the bitch Meri” and other vulgar names by Nedelkovski on his fan page, for which she denounced him to the police for harassment.<sup>41</sup> Nedelkovski’s fan page has over 12,000 followers, and on it, he also regularly insults human

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<sup>39</sup> SJPR, Qualitative analysis of the media reporting on interethnic and inter-religious issues in the Republic of Macedonia “The professional standards through the prism of a discursive analysis: Media narratives in the reporting on the murder in Smilkovci”

<sup>40</sup> <http://www.plusinfo.mk/vest/33473/Milenko-Nedelkovski-Shiptarite-gi-mnozham-sonula>

<sup>41</sup> <http://www.time.mk/cluster/4f56f11d6c/milenko-seksualno-ja-voznemiruva-meri-jordanovska.html>

rights activist and professor Mirjana Najcevska “Najce da i i.m majce” (Najce, f.k her mother); the former minister and current president of an NGO, Guner Ismail, is named a “prostitute”, etc. On the other hand, the journalist Ivanovski frequently uses the word “Talibans” or directs swears and indecent words mainly against the Government or ruling parties, but also against those that criticize the government but do not agree with his articles and thesis. Hate speech and offensive language are often freely allowed on fan pages of political parties, politicians’ pages and profiles of prominent public figures, journalists, CSO activists, regardless whether being supportive or critical of the government or opposition, without any care in this regard by owners of these pages.

There have been rare examples of state institutions, namely the Ministry of Interior (MoI), reacting to this type of hate speech. For example, at the beginning of 2011, the MoI called upon all Facebook users to restrain from publishing content with explicit hate speech relating to the construction of a church-museum at the Kale Fortress in Skopje. The construction of the museum at the fortress instigated considerable tension, as well as a big fight between football fans on an interethnic basis. Various groups formed on online social networks “for” and “against” the construction of the church-museum at the Kale Fortress, using hate speech, as well as insults on ethnic and religious grounds. Afterwards, the MoI requested from the Facebook administrators to block such groups.<sup>42</sup> Similar actions for closing down the pages of Facebook groups that called for violent protests were taken by the MoI in March and April 2012 during the chain of events after the Vevcani Carnival: policeman killing two Albanians in Gostivar, killings of five Macedonian youngsters near the Smilkovci lake), as well as in March 2013, in the chain of events that followed the election of Talat Xhaferri, a former member of the Macedonian army, who joined as a commander in the insurgent UCK during the internal conflict in 2001 as Minister of Defence.

Different forms of hate speech or inflammatory language can also be observed in non-signed editorials or articles. Hate speech directed towards those who criticize the government and against sexual minorities can also be observed in signed editorials, as is the example of Dragan Pavlovic Latas, the main editor in Sitel TV and *Vecer*, who often uses words such as “sorosoids” referring to people work work with the Open Society Foundations or NGOs that receive grants from this foundation, and “traitors”, “Greek mercenaries”,

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<sup>42</sup> Nova Makedonija: kПолициска опсада за мир на калето“алетосkadonija: k/cluser/4f56f11d6c/milenko-sek21 February 2011, available on: <http://www.novamakedonija.com.mk/NewsDetal.asp?vest=22111830495&id=9&setIzdanie=22212>

or “gay mercenaries” to stigmatize opposition politicians or civil society actors that criticize the government or the ruling parties. A group of CSO activists and journalists filed charges for slander against Pavlovic, but the case did not result in any legal verdict.<sup>43</sup> Ethnic hate speech on Albanians can be observed in the popular TV show “Jadi burek” with Janko Ilkovski (Eat Burek, aired on Sitel 3 and uploaded on YouTube, linked on Ilkovski’s social network profiles and fan pages), where he allows the audience to use the offensive term “Shiptars” for Albanians, or inflammatory language of callers from different ethnicities towards one another during the show.

Some of the main reasons for such an obvious explosion of inflammatory and hate speech can be attributed to the following trends:

- The collapse of decency in public discourse, the long-lasting impunity of users of hate speech, and the growing presence of hate that generates large attention of audiences have created an environment where the use of violent language in media discourse is considered normal and even attractive and a desirable tool in drawing audiences to the media;
- The editorial practices of editors in lead positions in newsrooms sometimes represent political and economic interests more than the interests of the public and principles of the profession. These editors allow inflammatory wording and stigmatizing representation of the political, ethnic or sexual “Other”;
- In addition to political difficulties, there are also challenges due to the tough economic conditions faced by many media outlets, often reflected in the lack of staff and investment in professional training. Online newsrooms cannot afford to hire enough moderators trained and capable to ethically deal with user-generated content;
- Websites of traditional media and mainstream web-native online media mostly rely on pre-moderation of comments, but a considerable number of websites refrain from this, using the excuse that it is too costly and there is no financial gain to be earned. This is, for example, the case with one of the most popular websites in Macedonia, the infotainment oriented [www.off.net.mk](http://www.off.net.mk).

It seems that most media have given up on the fight against inflammatory and hateful speech, with a considerable number of media embracing it as a tool to attract audiences, without any regards to the consequences for the society, which is fragile, especially in the context of its ethnic and religious

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<sup>43</sup> <http://www.time.mk/cluster/08d9f387d6/novinari-go-tuzat-latas.html>

diversity. Media themselves do not consider ethics as a priority in a situation where they face serious economic and political challenges. Even those media that have demonstrated willingness to publicly combat and expose hate speech, have sometimes created the opposite by producing even more hate in the audience towards named “haters”.

Most efforts in aligning online media with ethical and professional standards have come through media-oriented NGOs, but these efforts have been only a drop of decency in a sea of hate, especially if put into the current context of parallel journalists’ associations, unions, associations of internet media, and the obvious division in the trade, mainly along political, but also ethnic lines. Cases when journalists from newsrooms that have different views on societal and political developments come together to work on implementing professional standards are extremely rare.<sup>44</sup> Finding common ground for media professionals is more needed than ever before.

*Work of civil society actors, state and education institutions and other organizations in the field*

In March 2013, the Agency for Youth and Sports publicly announced the start of a national campaign against hate speech on the Internet.<sup>45</sup> However, there have been no immediate follow-up actions in conducting campaigns since the launch, and currently there is no content on the main page of the agency that suggests that such a campaign is on-going. There are furthermore no details on how the agency intends to carry out the campaign or other details on the project available. On the main page, there is a survey providing space for users to reply to the question “Hate speech on the web usually happens on these grounds”. Answers can be submitted anonymously from a multiple choice selection comprising religion, ethnicity, sexual orientation, political adherence, societal background, or other.<sup>46</sup>

When it comes to universities and higher education institutions, the School of Journalism and Public Relations (SJPR) and its UNESCO Chair for Media, Dialogue and Mutual Understanding have been very active in the

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<sup>44</sup> In 2008, the South-East Network for Professionalization of Media (SEENPM), of which MIM is a founding member, developed the Online Editorial Ethics Guidelines, which were presented at a public event and distributed to all online newsrooms in Macedonia. [USAIDhtml" 22212zdanie=22212" .html" y orion Metamorphosis, offers a website called "Fact Checking Service," in which prominent CSO and media experts write analyses and deconstruct media articles that have used inflammatory speech and other propaganda tools to mislead audiences.](http://www.usaid.gov/22212zdanie=22212)

<sup>45</sup> <http://www.ams.gov.mk/odnosi-so-javnosta/soopstenija/258-oznachen-poche-tokot-na-nacionalna-kampanja-protiv-govorot-na-omraza-na-internet>

<sup>46</sup> Available at: <http://www.ams.gov.mk/>

field. With the support of the UNESCO Office in Venice and the UN MDG Fund, SJPR has produced a series of documents, analysis, monitoring and publications aimed at raising professional standards in media respecting diversity.<sup>47</sup> Aside from SJPR, there are only sporadic initiatives that can be observed among other higher education institutions that offer journalism training. For example, journalism studies at the Law Faculty of the State University St. Cyril and Methodius – Skopje, with the support of OSCE, in March 2013 organized the workshop “Making distinction between hate speech and freedom of expression.”<sup>48</sup> OSCE has also published a manual entitled “European Court of Human Rights – Verdicts and Decisions Regarding Hate Speech from the Court Practice of the European Court of Human Rights”.<sup>49</sup>

Several NGOs, institutions and organizations have been very active in the area of combating hate speech and discrimination and in the protection of rights of marginalized groups in this context.

The most active perhaps is the Coalition for Sexual and Health Rights of Marginalized Communities, whose involvement in these issues is described in several places within this research. In 2011, the coalition published a research study on “The media discourses and discrimination on members of marginalized groups (substance users, sexual workers, LGBT, persons with HIV),<sup>50</sup> which includes many examples of stereotypes and offensive language used towards members of these groups in the media.

The publishing of this study was funded by the Foundation Open Society—Macedonia (FOSM), perhaps the biggest umbrella organization in the country, which is very active in supporting NGOs working in this field. In 2010, FOSM published *The black book*, which incorporates international and domestic standards on hate speech and many examples from both traditional and online media, including examples of cyber-hate and hate speech done through social networks.<sup>51</sup> Also in 2010, OSFM issued a handbook titled *The media and discrimination*, a useful educational tool

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<sup>47</sup> [www.respublic.edu.mk](http://www.respublic.edu.mk)

<sup>48</sup> <http://www.alfa.mk/News.aspx?id=53070#.UZ08E0qdOSo>

<sup>49</sup> <http://www.osce.org/mk/skopje/97690>

<sup>50</sup> <http://www.okno.mk/sites/default/files/065-mediumite-i-marginiliziranite-zaednici.pdf> Медиумските дискурси и дискриминацијата врз припадниците на маргинализираните групи (корисници на дрога, сексуални работници, ЛГБТ, лица што живеат со ХИВ), Главен истражувач: Жарко Трајаноски; Соработници: едиумсЦветковик и Станимир Панајотов; Коалиција “Сексуални и здравствени права на маргинализираните заедници” Скопје 2011

<sup>51</sup> Црна книга, издавач ФОСМ, уредник Роберто Беличанец (Black book, publisher FOSM, editor Roberto Belicanec), 2010, available at: <http://soros.org.mk/dokumenti/Crna-kniga-FI00M.pdf>

for recognizing discrimination, which also provides examples of hate speech and discrimination in media.<sup>52</sup> This foundation funds the anti-discrimination projects of a number of organizations that work with marginalized communities, including the above mentioned coalition, HOPS and several Roma NGOs.

The Helsinki Committee for Human Rights in Macedonia, who were themselves victims of violence and hate speech because of the committee's opening of an LGBT centre in the old town in Skopje, is also active in this field. In addition to being the target of a significant number of cases of hate speech, especially on social networks, about the LGBT community during the period from September 2012 to November 2013, the newly opened offices have been vandalized several times. At the time of the writing of this study, the police had still not found any of the perpetrators.<sup>53</sup>

The Association of Journalists of Macedonia (ZNM) has also undertaken activities in this regard. In 2012, ZNM published a study by prominent law experts Vlado Kambovski and Professor Mirjana Lazarova Trajkovska, PhD, who currently serves as a justice in the European Court of Human Rights in Strasbourg, which interprets the domestic and international standards and legislation regarding hate speech.<sup>54</sup>

The Youth Educational Forum (MOF), a youth NGO, has also been active in this field. In December 2012, this NGO, together with a group of about 20 other NGOs, started working together on an initiative to combat hate speech online. MOF, through its media website and online radio ([www.radiomof.mk](http://www.radiomof.mk)) regularly provides information on the activities of NGOs and other actors in the area of combating hate speech. The website has also published a series of articles on "Guidelines on how to recognize hate speech on Facebook," which are produced in partnership with a website dedicated to information and communication technologies ([www.it.com.mk](http://www.it.com.mk)).

### *Media literacy among the general population and journalists*

The lack of relevant education is clearly one of the reasons for which hate speech has expanded so widely on social networks. There is a huge

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<sup>52</sup> Фондација Институт отворено општество пшМакедонија; Автори: Мирјана Најчевска, Жарко Трајаноски; аМедиумите и дискриминацијата"искриминацијата amk/dokumenMirjana Najcevska Zarko Trajanoski, "Media and Discrimination"; 2010 ; ISBN 978-608-218-079-3, available at: <http://okno.mk/sites/default/files/062-Medium-ite-i-diskriminacijata.pdf>

<sup>53</sup> One World, "New LGBTi Support Center In Skopje Attacked", 25 October 2012, available at: <http://oneworldsee.org/content/new-lgbti-support-centre-in-skopje-attacked>,

<sup>54</sup> Available at: <http://www.jpacademy.gov.mk/upload/PDF%20Files/Pravna%20analiza.pdf>.

need to intensify media and information literacy programmes for the general population. The Macedonian Institute for Media (MIM) is one of the rare organizations that work in this field. In 2009, the institute initiated a three-year project to introduce media and information literacy in the educational system. Within this project, some 1,200 teachers from all primary and secondary schools in Macedonia were been trained, Experts from MIM and the School of Journalism and Public Relations produced a Handbook on media literacy for teachers and set up a dedicated website ([www.mediumskapismenost.edu.mk](http://www.mediumskapismenost.edu.mk)), as well as organized two conferences with experts of media literacy and educators. MIM continues working in this field by training teachers on the practical production of content and incorporating media literacy elements in the context of interethnic integration in education, an effort that is carried out in the framework of USAID's Project for Interethnic Integration in Education (IIEP), a 5-year project that aims at improving and promoting interethnic integration in the educational system in the country.

Several other organizations work with media literacy indirectly with a more narrow focus or with specific target audiences. For example, the Youth Educational Forum organizes trainings and different educational activities for young people to develop critical thinking, debating and multimedia production skills, and has a specific interest in raising awareness of online hate speech. The Metamorphosis Foundation has worked for many years in the area of digital and online literacy, as well as on privacy protection. The Centre for Performing Arts and Multimedia works with students to provide them with skills to produce creative audiovisual content, which also includes principles of respecting diversity.

However, it is obvious that media literacy has been a neglected topic by institutions, the public and opinion makers. The constant degradation of the quality of public discourse, in which many prominent public figures use improper language in public without any consequence; the degradation of the educational system; and other societal factors have produced public opinion that rarely manages to have open-minded and respectful debates on sensitive issues. The audience risk becoming prey to propagandistic discourse and not able to resist subtle forms of manipulation or to critically analyse and decode media content. Lack of media and information literacy may contribute to reinforcing stereotypes and hate speech, especially visible online.

## Recommendations

- The vast presence of hate speech, inflammatory language and unethical public discourse, which has occupied the media, especially those online, requires a multi-dimensional and multi-field approach to address the issue through institutions and legislation, media self-regulation, and educational activities towards the general audience and within newsrooms;
- Politicians and other public figures should refrain from offensive language, which often incites hatred among larger groups of people. This is especially important since, according to existing research, most hate speech in media comes from the uncritical transferring of statements by politicians and other actors used as sources by the media.<sup>55</sup> Such practice is unprofessional and not in accordance with standards of good journalism;
- Efforts should be made to enhance the proper implementation of legislation. The Ministry of Justice and the Academy for Training of Judges and Public Prosecutors should provide institutional and financial resources for continuous organization of trainings for judges so that the domestic judiciary applies international and regional conventions, such as the European Convention on Human Rights. Journalists, editors-in-chief and media owners should participate in these trainings;
- A more proactive approach is needed from responsible institutions in dealing with hate speech. In addition to the courts, a significant role in this area can be played by the Broadcasting Council, the Commission for Protection from Discrimination, the Public Prosecutor's office and the Ministry of Interior;
- Steps to combat hate speech must be increased in journalism education and in newsrooms, as well as in the larger media community, through better specific conflict-sensitive training curricula and the establishing of independent and efficient self-regulatory mechanisms;
- Media should refrain from generalization of societal groups, especially in headlines and in news that deal with sensitive events, such as incidents and fights. Perpetrators of violence should at the

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<sup>55</sup> SJPR, Qualitative analysis of the media reporting on interethnic and inter-religious issues in the Republic of Macedonia "The professional standards through the prism of a discursive analysis: Media narratives in the reporting on the murder in Smilkovci"



- outset be regarded and reported on as individual violators, not as part of a collective that endangers “the Other” collective.
- The audience should be better education both through obligatory development of media and information literacy in the educational system, especially in social sciences, and through educating adult groups through intensive online training programs.

*Note on the methodology and on the research:*

The Macedonian Institute for Media (MIM) has prepared this paper as part of the project “dMedia Accountability South East Europe”, a project funded by the EU and implemented by UNESCO and the South-East European Network for Professionalization of Media (SEENPM). The main aim of the project as a whole and this paper in particular is to promote media freedom and freedom of information in the region through strengthening self-regulatory mechanisms for traditional and online media.

As part of the activities carried out within this project, this paper aims to initiate a substantial public debate related to hate speech within online media in Macedonia, identifying main trends in the use of hate speech. The paper also describes measures undertaken by media or other authorities and organizations in addressing the situation, their effectiveness, and balance given to freedom of expression.

This paper draws on previous research work and monitoring of media content conducted by different media and civil society organizations and experts, including analysis, research and monitoring of media content carried out by MIM, the Association of Journalists of Macedonia, the School of Journalism and Public Relations, the Foundation Open Society Macedonia, the Helsinki Committee for Human Rights in Macedonia, the Coalition for Health and Sexual Rights of Marginalized Communities and other relevant societal and professional actors that have worked in this field. It also includes the latest relevant data in terms of current legislation, as well as the work and results of state institutions in combating hate speech in the media and public discourse.

The analysis has been prepared according to a methodology and analytical structure of online hate speech through the following sections:

- A brief contextual introduction of the media landscape and the role of online media, giving a general overview of the traditional media landscape, spread of internet access and emergence of new media, and the level of media knowledge in the population and among journalists;

- Regulation of hate speech - current general and media-specific legislation, code of ethics and current self-regulatory mechanisms and practices to regulate hate speech in media;
- Situation of online hate speech - description of the main trends, problems and violations through case studies and reviews of previous research, focusing on the content of speech; the (written or verbal) tone of speech; an evaluation of the nature of that speech; the (individual and collective) targets of that speech; and the potential consequences or implications of the hate speech. In this context, the paper is specifically focused on analysing the spread of inter-racial and inter-ethnic hate speech in online media, the main existing stereotypes propagated in online media, the use of online media by extremist individuals or organizations, anonymity and cyber-hate, and the treatment of minorities in online media (ethnic, religious, sexual, racial, gender, etc.)
- Steps that media take to address the matter (filtering of comments, role of moderators, rules for using websites, blocking of comments, etc.) as well as the efficacy of these measures and how they are balanced with freedom of expression.

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# Hate speech in online media in Montenegro

**Daniela Brkic**

<b>Main information on regulation of hate speech in Montenegro</b>
<b>Internet penetration in the country:</b> 55.8%; Total population: 620,000
<b>Most read online media outlets:</b> vijesti.me (110,000 daily visits); cdm.me (50,000 daily visits; portalanalitika.me (10,000 daily visits)
<b>Laws:</b> “causing and spreading national, religious or racial hatred, division or intolerance among people, national minorities or ethnic groups”: Criminal Code <sup>1</sup> of Montenegro, Article 370
<p><b>Media specific laws/regulations:</b></p> <ul style="list-style-type: none"> <li>• “An AVM [audiovisual media] service must not incite, enable incitement or spread hatred or discrimination on the grounds of race, ethnic background, skin colour, language, religion, political or other belief, national or social background, financial standing, trade union membership, education, social status, marital or family status, age, health status, disability, genetic heritage, gender identity or sexual orientation” - Electronic Media Law (Article 48)</li> <li>• “Media institutions must not publish material that is intended or is likely to engender hostility or hatred towards persons on the grounds of their race, ethnic origins, nationality, gender, physical disabilities, religion or political affiliation” - The Code of Montenegrin Journalists</li> </ul>
<p><b>Self-regulatory body supervising the Code:</b> Media Self-Regulation Council, Self-Regulatory Local Press Council and TV Vijesti's Ombudsman. (There are another two inactive self-regulatory organizations: the Journalistic Self-Regulatory Body and the Press Council.)</p>
<p><b>Media included in the self-regulatory system:</b> The main self-regulatory body is the Media Self-Regulation Council, which includes two major online media outlets (cdm.me and portalanalitika.me). However, the major news portal vijesti.me is not a member of this body. Other online news platforms, as well social media, blogs and forums are not included in the self-regulatory system.</p>
<p><b>Examples of media establishing terms and conditions for online comments:</b> Major online media outlets have established rules for comments, and they rely on consistent moderation of their content. The largest news portal, Vijesti.me, however, denies responsibility for the content of comments and allows comments to be posted in real time, removing them only after improper content is observed.</p>

<sup>1</sup> Criminal Code (Krivični zakonik), “Official Gazette of the Republic of Montenegro”, Nos. 70/2003, 13/2004, 47/2006 and 40/2008



## I. Media Landscape and importance of online media

Montenegro's media landscape has gone through a turbulent transition in the past decade. From a society with only one state broadcaster and a single state-owned newspaper, Montenegro's media landscape has evolved into becoming truly pluralistic, and according to many, now somewhat overcrowded and chaotic.

The number of active media outlets is disproportionately high for the country's size, population and economy. According to the Agency for Electronic Media, in April 2013, there were 16 commercial television stations and 38 commercial radio stations, along with the national public service broadcaster and 17 local public service broadcasters (three television and 14 radio stations). For the past several years, the highest audience share has been held by the privately owned, news-focused TV *Vijesti*, followed by PBS TVCG and TV PINK M, which is part of a Serbian media network. When it comes to print media, five daily newspapers and one major political weekly magazine are published in Montenegro. Two major dailies, *Vijesti* and *Dan*, have been unrivalled leaders for more than a decade.

This relatively high number of media outlets provides a wide array of options and a chance for all political camps to present their standpoints. However, lack of economic sustainability remains a major problem for the media.

The editorial approach and the level of professional journalistic standards vary significantly from one media outlet to another. In addition to economic pressures, the highly politicized and divided media environment remains a fertile ground for biased journalism, something that has also been noted in Montenegro's Progress Reports by the European Commission for accession to the EU.<sup>2</sup>

Internet penetration in Montenegro reached more than 50% in 2011 and has since continued its steady growth.<sup>3</sup> The online media market has developed tremendously since 2009 and is still growing. Before 2009, the only major news portals were Café del Montenegro ([www.cdm.me](http://www.cdm.me)) and the website of daily newspaper *Vijesti*. Café del Montenegro (CDM) focused on entertainment and forum discussions, gradually stepping up with regular updates of political and economic news. The more specialized news portal, *Analitika* ([www.portalanalitika.me](http://www.portalanalitika.me)) appeared in 2009, and rapidly expanded its audience, attracting over a million visits

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<sup>2</sup> European Commission's Montenegro 2012 Progress Report, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2012/package/mn\\_rapport\\_2012\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/mn_rapport_2012_en.pdf)

<sup>3</sup> According to Montenegro's statistical office Monstat, internet penetration was 51.4% in 2011, 55% in 2012 and 55.8% in 2013. See [www.monstat.org](http://www.monstat.org).

during its first year of existence. The redesigned website of the portal Vijesti ([www.vijesti.me](http://www.vijesti.me)) was introduced in January 2011, and it rapidly raised the number of visits, making this portal the leader in online news. According to the web information company Alexa, Vijesti and CDM are ranked 5<sup>th</sup> and 8<sup>th</sup> in the number of visits from Montenegro, while other local online news providers have not reached the top 50 places. According to information obtained from the management of these two portals, the average number of daily visits to CDM is 50,000 and to Vijesti is 110,000. However, if one compares Vijesti's online and broadcast presence, as the leading web portal, Vijesti reaches at most 120,000 daily unique visitors, lagging behind TV Vijesti's prime time news' audience of an the average of 160,000 regular viewers. One can therefore conclude that the internet still has not achieved the reach of television, which remains the dominant news source.

A number of other traditional media outlets have regularly updated websites, which, however, do not have significant reach to a wider audience. The newest online edition that is rapidly gaining audience is the portal of the public broadcasting service, Radio-Television of Montenegro ([www.rtcg.me](http://www.rtcg.me)), which was launched in January 2013.

## II. Regulation of hate speech

### 1. The general legal framework

Montenegrin legislation does not use the term "online hate speech". However, this could soon change, since Montenegro is signatory to the Council of Europe's Convention on Cybercrime and its Additional Protocol concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems. The protocol was ratified by Montenegro in 2010.

Despite the fact that online hate speech has not been legally defined, in Montenegro, there are legal mechanisms that can still provide protection from it. These start with the Constitution,<sup>4</sup> which prohibits infliction or encouragement of hatred or intolerance on any grounds (Article 7), as well as direct or indirect discrimination (Article 8).

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<sup>4</sup> Constitution of Montenegro (Ustav Crne Gore), "Official Gazette of Montenegro", No 1/07

In addition, inciting national, racial and religious hatred, division and intolerance is defined as a criminal act in the Criminal Code of Montenegro.<sup>5</sup> Article 370 states that “(1) anyone who causes and spreads national, religious or racial hatred, division or intolerance among people, national minorities or ethnic groups living in Montenegro, shall be punished by imprisonment for a term of six months to five years. (2) If an act as of Paragraph 1 of this article is done through intimidation, maltreatment, endangering of safety, exposure to mockery of national, ethnic or religious symbols, by damaging another person’s property, by desecration of monuments, memorial-tablets or tombs, the offender shall be punished by imprisonment for a term of one to eight years. (3) Anyone who commits an act referred to in Paragraphs 1 and 2 of this article by abusing his/her position of authority or as the result of acts of riots, violence or other severe consequences for the shard life of the community, national minorities or ethnic groups living in Montenegro, shall be punished for an act as of Paragraph 1 of this article by an imprisonment sentence for a term of one to eight years, and for an act as of Paragraph 2 by imprisonment of two to ten years.”

Furthermore, Article 443 of the Criminal Code forbids racial and other discrimination. It states that anyone who spreads ideas about the superiority of one race over another, or promotes racial hatred, or instigates racial discrimination, shall be punished by imprisonment for a term of three months to three years.

In practice, this legislation is applied, although some organizations claim that the number of processed cases is too low. This complaint is often be heard in LGBT activists’ campaigns.<sup>6</sup> The Government has also recognized this problem. It has therefore introduced the national Strategy for improving the quality of life of LGBT persons, 2013 – 2018,<sup>7</sup> which states that it is of special importance to provide the full implementation of legal solutions at all levels and institutional capacities in terms of knowledge and skills to recognize incidents and hate crimes.

In 2012, a significant step forward was made in prosecuting hate speech crimes, with the Magistrates Court in Podgorica ruling against the leader of the Serbian Orthodox Church in Montenegro, the Metropolitan Amfilohije Radovic. The court admonished Radovic for insulting the national feelings of

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<sup>5</sup> Criminal Code (Krivični zakonik), “Official Gazette of the Republic of *Montenegro*”, Nos. 70/2003, 13/2004, 47/2006 and 40/2008

<sup>6</sup> LGBT Forum Progress, *Discrimination and violence towards LGBT persons goes without punishment*, <http://lgbtprogres.me/2011/06/neka%C5%BEjivost-diskriminacije-i-nasilja-nad-lgbt-osobama/>

<sup>7</sup> <http://www.mmp.gov.me/en/library/strategije>

Montenegrins in his statements delivered on Christmas Eve in 2011, which qualified as hate speech.<sup>8</sup> Commenting on the court's decision, the President of the Montenegrin Parliament, Ranko Krivokapic, said that this ruling was good news since it demonstrated the law now also applied to the Serbian Orthodox Church.<sup>9</sup>

## 2. Media specific regulations

The Electronic Media Law<sup>10</sup> (Article 48) prescribes that “an AVM service must not incite, enable incitement or spread hatred or discrimination on the grounds of race, ethnic background, skin colour, language, religion, political or other belief, national or social background, financial standing, trade union membership, education, social status, marital or family status, age, health status, disability, genetic heritage, gender identity or sexual orientation.” This provision also refers to “electronic publications”, which is a legal term for “all services of electronic publications by means of electronic communication networks”.

According to the Electronic Media Law, the Agency for Electronic Media (AEM) is responsible for monitoring the programmes of audio-visual services, including electronic publications; acting on breaches of programme rules; and resolving complaints from natural or legal persons related to the work of electronic publications. However, the scope of AEM's monitoring sector, as described in AEM's website ([www.ardcg.org](http://www.ardcg.org)), is limited to radio and television. As explained by AEM, the problem lies in the vaguely and very broadly defined term “electronic publications”. Article 8 of the Electronic Media Law defines electronic publications as “editorially-shaped web pages and/or portals containing electronic versions of print media and/or information from the media in a way accessible to a wider public regardless of their scope.” This poses problems from a regulatory perspective, starting from identifying the target subjects and finding efficient methods of

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<sup>8</sup> In his statement, Radovic commented on the state's intention to remove a Serbian Orthodox church from a spot considered sacred by both Catholic and Orthodox Christians, as well as by local Muslims. On Christmas Eve, Amfilohije said: “Whoever demolishes that temple, let God destroy them and their descendants. May the holy cross be my judge,” (Ko sruši taj hram, Bog ga srušio, i njegovo potomstvo. I časni krst mu sudio). Also, in a letter sent to Montenegrin Prime Minister, Igor Luksic, Amfilohije warned that, “if it comes to the destruction of the church, it may lead to the destruction of some mosques, and even to bloodshed on religious grounds.”

<sup>9</sup> Radio Free Europe, “Amfilohije found guilty for hate speech”, 19/11/2012, <http://www.slobodnaevropa.org/content/amfilohije-kriv-zbog-govora-mrznje/24775127.html>

<sup>10</sup> Electronic Media Law (Zakon o elektronskim medijima), Official Gazette of Montenegro Nos. 46/10, 40/11, 53/11

monitoring and moderating forbidden content. According to the assistant director of AEM, Momcilo Stojanovic, in the current legal framework, the area of online media is rather artificially implanted in AEM's competencies, and the agency's council has started an initiative for drafting by-laws that would introduce more order in the area.<sup>11</sup> Institutions outside the media sphere are also limited by the fact that hate speech on the internet is not recognized in current legislation as a specific offence. The police do not have a special unit to deal with these occurrences. Instances of hate speech can be reported to the police or filed with the state prosecutor, who would then decide if such speech could be classified as any of the legally-defined criminal acts.

For example, in April 2013, the first instance court in Bar issued a suspended prison sentence for threats sent on Facebook to a member of the LGBT community. In this case, the criminal offence was treated as "endangering the safety of an individual".<sup>12</sup>

### 3. Media self-regulatory framework

#### *Journalistic code of ethics*

The Code of Montenegrin Journalists<sup>13</sup> does not contain principles or guidelines that specifically refer to online media. However, the general principle on hate speech states that, "Media institutions must not publish material that is intended or is likely to engender hostility or hatred towards persons on the grounds of their race, ethnic origins, nationality, gender, physical disabilities, religion or political affiliation. The same applies if it is highly probable that publication of a material may cause the above stated hostility and hatred." It also adds that, "journalists must take utmost care to avoid contributing to the spread of ethnic hatred when reporting events and statements of this nature. It is a journalist's duty to respect other states and nations."

Six journalistic and media organizations adopted the code in 2002 at the Montenegro Media Institute. This was the period when basic media laws were drafted, setting the legal framework for this area. Its makers clearly stated in the text of the code that "these guidelines are not final, but can be supplemented in compliance with ethic dilemmas arising from practice,"

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<sup>11</sup> This statement was given during the roundtable discussion "Addressing online hate speech and the role of media accountability", held on 24 May 2013 in Podgorica.

<sup>12</sup> Bar Info, "Student from Bar sentenced for endangering LGBT person", 25 April 2013, <http://www.barinfo.me/text.php?kategorija=3&id=1918>

<sup>13</sup> Codex of Montenegrin Journalists (Kodeks novinara Crne Gore), <http://www.osce.org/montenegro/19732>

but this has never been done. The code identified the self-regulatory body in charge of implementation of the code and its future amendments, however, in the period 2010-2012, which has seen the most intensive development of online media, Montenegro did not have a functional self-regulatory body.

### *Self-regulatory bodies*

Only since 2012 have the self-regulatory mechanisms in Montenegro started to re-establish themselves. Currently, there are five registered self-regulatory bodies, three of which are active: the Media Self-Regulation Council, the Self-Regulatory Local Press Council and the TV Vijesti's Ombudsman. The inactive ones include the Journalistic Self-Regulatory Body and the Press Council. None represent the majority of the media community in Montenegro.

To understand this situation, it is necessary to look back at the events of the past few years. The Journalistic Self-Regulatory Body, the single self-regulatory body that had brought together most of the larger members of the media community and had actively contributed to monitoring implementation of the Code of Montenegrin Journalists over the past decade, dissolved in March 2010. The reasons for this were discrepancies in the interpretation of the code, which led to a break-up of the body's council.<sup>14</sup> The situation left an institutional void in self-regulation that lasted for two years. Despite the encouragement and initiatives taken by the OSCE Mission in Montenegro, as well as the EU Delegation and President Filip Vujanovic, a national self-regulatory practice has not been re-established. A deep division between pro-government and opposition media prevented the establishment of a functional and unified self-regulation mechanism for journalists.<sup>15</sup> Instead, several different self-regulatory organizations were formed. In March 2012, representatives of 18 print and electronic media outlets formed the Media Self-Regulation Council (MSC). However, some of the most influential media, including the daily newspapers *Vijesti* and *Dan*, *Vijesti* television, and the weekly newspaper *Monitor* declined to join what they described as an excessively pro-government group. They indicated that they would form a separate self-regulatory mechanism. In August 2012, dailies *Vijesti* and *Dan* registered the Press Council, which still has not begun operating. In addition to these two bodies, in April 2012, a group of small local media outlets from the country's northern region established the Self-

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<sup>14</sup> Radio Free Europe, "Subotic posvadao crnogorske medije," 25 March 2010, [http://www.slobodnaevropa.org/content/stanko\\_subotic\\_intervju\\_tv\\_in\\_novinarsko\\_samoregulatorno\\_tijelo/1993722.html](http://www.slobodnaevropa.org/content/stanko_subotic_intervju_tv_in_novinarsko_samoregulatorno_tijelo/1993722.html)

<sup>15</sup> US Department of State, *Montenegro 2012 Human Rights Report*, <http://www.state.gov/documents/organization/204530.pdf>

Regulatory Local Press Council, which has begun convening. In January 2013, Vijesti television informed the public that it had established the office of an in-house ombudsman.<sup>16</sup>

The current outcome of these recent developments is the formation of a major functional body (the Media Self-Regulation Council), which, thanks to the state's support,<sup>17</sup> since April 2012 has actively reported on breaches of the Code. However, in the first year of its work, it has not managed to include several major media outlets.<sup>18</sup> Moreover, a recent analysis<sup>19</sup> of self-regulation in Montenegro performed by the NGO Human Rights Action argues that this body's activities deviate from good practices of self-regulation, as recommended by OSCE's *Media Self-Regulation Guidebook*.<sup>20</sup> One argument was that almost 90% of the MSC's reported examples of the Code's breaches referred to media that were not members of the self-regulatory body. In addition, the report found that the MSC's Monitoring Team, rather than being constituted of independent persons, consisted of two professional journalists from the media who served as a member of the MSC and the executive secretary/director of the MSC. The report warns that such practices could lead to further deepening divisions within the media community instead of cultivating the principle of voluntary self-regulation among the media.

Praise from the international community on the reestablishment of self-regulatory mechanisms was soon followed by criticisms. In June 2013, the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression once again urged Montenegrin media to ensure high professional and ethical standards through voluntary self-regulation. "I was surprised by the extreme polarization among media representatives. It is very unfortunate that efforts to establish a single self-regulatory body have so far produced very limited results," said the UN independent expert.<sup>21</sup>

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<sup>16</sup> <http://www.vijesti.me/vijesti/tv-vijesti-dobija-ombudsmana-clanak-110681>

<sup>17</sup> Through an open call, the government provided the Media Self-Regulation Council with 30,000 Euros in support intended for three years to fund its operations. The funds were designated by the European Union.

<sup>18</sup> Non-members include: Television Vijesti, which has the largest audience share in Montenegro (Ipsos Strategic Marketing, April 2013: TV Vijesti 29%), major dailies *Vijesti* and *Dan* (circulation estimates according to MEDIA Ltd 2011: *Dan*, 17,000; *Vijesti*, 15,000; *Pobjeda*, 7,000), and web portal Vijesti with 110,000 daily visits, which surpasses the second most popular portal by more than 100%.

<sup>19</sup> Human Rights Action, 2013 Report, "Monitoring of Journalistic Self-Regulatory Bodies in Montenegro", <http://www.hraction.org/?p=3149>

<sup>20</sup> <http://www.osce.org/fom/31497>

<sup>21</sup> <http://www.un.org/apps/news/story.asp?NewsID=45197&Cr=montenegro&Cr1=#.Ut5y7rQ1jIU>

### III. Extent and nature of hate speech in online media

#### 1. Reporting on inter-racial and inter-ethnic divisions

Although Montenegro has a history of media war mongering and spread of ethnic hatred through the media, which dates back to the 1990s at the time of civil war and the break-up of the former Yugoslavia, in recent years, hate speech in the media has become a sporadic occurrence. This still poorly regulated sphere of online media opened a new platform for hate speech. The rise of professional standards in traditional media has kept hate speech at bay when it comes to the primary content of online media, both in the websites of mainstream media and news portals. However, the situation is somewhat different when it comes to journalists', editorial comments and citizens' news-related blogs, and it drastically degrades when it comes to user-generated content (UGC). The Media Self-Regulation Council reports on breaches of journalists' ethical code from the period of April 2012 to March 2013 identified hate speech as a major problem in media ethics and occurred most often in UGC on news portals.<sup>22</sup> Also, during the production of this paper, comments on major news portals that included blatant curses, abuses, insults and foul language could be found. Those comments were observed to most often be deleted by administrators, but with a certain time-delay. The majority of comments that contain abusive language, insults and hate speech refer to deep interethnic division in Montenegro between Serbs and Montenegrins and homophobic statements toward the gay community.<sup>23</sup>

This situation reflects strong divisions in the Montenegrin society reaching back to the independence referendum in 2006, in which the population was divided between supporters of sovereignty and those who opted for a state union with Serbia. The current political environment more or less mirrors the same national division, with the ruling regime opposed mainly by pro-Serbian parties. Nationalistic statements easily flare up since there are several open political debates on important issues of national identity, such as national symbols, treatment of the Montenegrin versus Serbian languages in schools, and the status of Montenegrin versus Serbian Orthodox churches.

Another problem is the character of political public debate, which is generally negative, sometimes abusive and even drawn to personal insults. The most extreme example was Prime Minister Đukanović's insult of the opposition Positive Montenegro's MP Dritan Abazović during a session of Parliament. The incident was preceded by a debate between the Prime

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<sup>22</sup> <http://medijskisavjet.me/>

<sup>23</sup> Ibid.



Minister and Positive Montenegro MPs, who asked Đukanović about “loans worth millions” allegedly taken out by his companies in the period when he was not at the helm of the government. After Abazović addressed him, Đukanović said, “Sit down, hoodlum.”<sup>24</sup> This atmosphere is most easily observed in pre-electoral campaigns, as confirmed in the reports of international observers such as the OSCE.<sup>25</sup> Traditional media reports testify to this combative climate. One example occurred at an electoral rally ahead of the October parliamentary elections, in which the ruling Democratic Party of Socialists (DPS) competed with the pro-Serbian Democratic Front coalition and the newly formed party Positive Montenegro. Current Prime Minister and leader of the DPS Đukanović called the party’s political competitors “Chetniks<sup>26</sup> and beginners”<sup>27</sup> (četnici i početnici), claiming that the opposition was influenced by Serbian nationalistic politics and local tycoons that had joined forces to “strangle Montenegro”.<sup>28</sup> The state-owned daily *Pobjeda* chose this statement as the best quote of the year.<sup>29</sup>

Similarly abusive and potentially libellous statements also come from opposition parties. For example, one of the leaders of the main opposition block Democratic Front, Nebojsa Medojevic, on 24 February 2013, wrote on his Facebook profile that the ruling Democratic Party of Socialists (DPS) was “a fascist sect and a weed that should be eradicated”.<sup>30</sup> This political discourse sets fertile grounds for the spread of hate speech in media, especially considering that the media community primarily follows political party lines in conflicts.<sup>31</sup> Open confrontation between the pro-government media bloc and those with a critical stance towards the authorities has resulted in insults and personal attacks through the exchange of online editorials, blogs and columns. Such insults could be observed in the several

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<sup>24</sup> [http://www.b92.net/eng/news/region.php?yyyy=2013&mm=11&dd=22&nav\\_id=88431](http://www.b92.net/eng/news/region.php?yyyy=2013&mm=11&dd=22&nav_id=88431)

<sup>25</sup> OSCE/ODIHR Limited Election Observation Mission, *Final Report on early parliamentary elections held on 14 October 2012*. The report states that the electoral campaign was personalized and negative in tone. [www.osce.org/odihr/97940](http://www.osce.org/odihr/97940)

<sup>26</sup> “The term ‘chetnik’ refers to a member of a Serbian nationalist guerrilla force that formed during World War II to resist the Axis invaders and Croatian collaborators, but that primarily fought a civil war against the Yugoslav communist guerrillas, the Partisans” (Britannica). Nowadays, it is used as racial slur for Serbians.

<sup>27</sup> „Naša konkurencija se danas na političkoj sceni dominantno prepoznaje kroz jednu grupu koju bih kvalifikovao kao grupu četnika i drugu kao grupu početnika.“ <http://www.pobjeda.me/2013/01/01/politika-2012-izjava-godine-cetnici-i-pocetnici/>

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> <http://www.portalanalitika.me/politika/vijesti/91706-medojevi-dps-je-faistika-sekta-i-banda-taj-korov-treba-zatrijeti.html>

<sup>31</sup> Media also took an active part in political divides during the electoral campaign. The most influential were divided between support of the government (RTCG, Pobjeda) and opposition (Vijesti, Dan, TV Vijesti).

vicious printed exchanges between Srdjan Kusovac, the editor-in-chief of Pobjeda, the daily newspaper owned by the Montenegrin government, and Zeljko Ivanovic, editor-in-chief of Vijesti, a rival Podgorica-based daily with a pro-opposition editorial policy. Referring to his rival Vijesti, Kusovac called them “media mafia”, saying that he “would not touch that garbage without sanitary gloves”.<sup>31</sup> Conversely, commenting on Pobjeda’s editorial policy, Ivanovic wrote that “nothing has more effectively laid bare the nature of the Montenegrin regime, its perversity, coalescence with mafia, gobbling in corruption and theft, its twisted system of values – as ‘fogoid’, headed by the PM’s favourite editor.”<sup>33</sup>

The political and media discourse creates communication stereotypes among the public, evident in comments in online media. Thus, on one side, one can find posts referring to the DPS party and its members as “mafia”, “corrupt”, “fascists”, “autocrats”, “Shqiptar (Albanian) lovers”, while the pro-Serbian opposition, and often Serbs in general, become “Chetniks”, “oppressors” and “throat slayers”.<sup>34</sup>

Although the Code of Montenegrin Journalists forbids media from publishing material that is likely to lead to hostility or hatred towards people on the grounds of their ethnic origins, nationality religion or even political affiliation, media rarely refrain from republishing/broadcasting such statements from public officials. In addition to the competitive atmosphere created by the popularization of social media such as Facebook and Twitter, when posts on social profiles of public figures became a source of information, online media try to grab some of the popularity. In trying to gain the upper hand in speed, number of posts and liveliness of discussion, online media enter the trap of sensationalism and allow their users to use language that was not common in traditional media. Although it is hard to distinguish between abusive language, satire and hate speech, especially when these occurrences are not clearly defined, there are still examples that constitute open calls for hostility and violence.

Such examples can be found among the users’ comments on an article published on the Vijesti portal “CEDEM: Stojimo iza Bešićevog istraživanja” (CEDEM: We stand behind Besic’ poll) published on 10 October 2012.<sup>35</sup>

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<sup>32</sup> <http://www.cdm.me/drustvo/crna-gora/kusovac-odlazim-na-godisnji-a-kad-se-vratim-otjeracu-ih-u-spuz>

<sup>33</sup> <http://www.vijesti.me/kolumne/ekrem-vladi-kolumna-153703>

<sup>34</sup> Users comments from portals Vijesti, Pobjeda, Café del Montenegro

<sup>35</sup> <http://www.vijesti.me/izbori-2012/cedem-stojimo-iza-rezultata-besicevog-istrazivanja-clanak-94395>. In this paper, examples have been taken from major portals (Vijesti, CDM and Analitika). Similar examples can be found in other web editions of traditional media, and news oriented web sites, but they haven’t been considered due to the small number of total visits they receive (less than 5,000).

The article reports only a short statement by the Center for Democracy and Human Rights (CEDEM) confirming that they fully support a pre-electoral opinion poll conducted by their chief researcher Milos Besic. The poll showed an advantage for the ruling coalition in the parliamentary elections, seven days before the vote. The statement was given following claims from other election participants that the polls were rigged in the DPS's favour, but the article itself does not provide the context of the statement. Among the 35 comments posted on this article, there are a number who call Besic a "mercenary" or "analyst of the regime". Others give insulting comments on his appearance, while some call for the closure of his and similar organizations that support of the "mafia-fascist regime". One comment, posted by a user nicknamed portir (doorman), says: "Glasamo svi za front, a 14 uvece slavimo pobjedu nad mafijaskom elitom, blokiramo aerodrom, zatvaramo sve puteve,zauzimamo televiziju crne gore, ako krenu na nas, branimo se, jer smo casni i posteni!!!"<sup>36</sup> (We shall all vote for the Front, and on the 14<sup>th</sup> in the evening we shall celebrate the victory over the mafia elite. We shall block the airport, shut down all roads, invade the Television of Montenegro and if they attack us, we shall defend ourselves, because we are straight and honest!!!)

Comments like this, which present potential calls for violence towards political opponents, could pose a threat to public order. This outcome is feared especially considering that the general elections were accompanied by promotional mass rallies and, later, that the presidential elections ignited massive street protests. In addition, traditionally, electoral victory in Montenegro is celebrated by gathering supporters in front of the government building, car honking, and sometimes with traditional shooting in the air. These gatherings as a rule require police alertness so as to prevent potential outbreaks of violence.

The spread of ethnic intolerance is another common feature of users' comments. For example, in the portal CDM, the article "Dzomic: Samo mi još pol nijesu promijenili" (Dzomic: They left only my gender unchanged)<sup>37</sup> contains users comments with calls for the exile of Serbian priests from Montenegro. The article contains a statement of Serbian Orthodox Church parish Velibor Dzomic, who claims that an officer from the Ministry of the Interior forged his personal data in order to make him unqualified for gaining residence in Montenegro. The residence requests of Dzomic, a Serbian national who had lived in Montenegro for 17 years, had previously been

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<sup>36</sup> <http://www.vijesti.me/komentar/94395/>

<sup>37</sup> <http://www.cdm.me/drustvo/hronika/dzomic-samo-mi-jos-pol-nijesu-promijenili?comments=post>

rejected twice. The National Security Agency concluded that he jeopardized national security, peace and order. The Appellate Court overruled both decisions. The case received international attention<sup>38</sup> as a possible problem with the respect of religious freedoms in Montenegro. In this specific case, out of the 22 comments, several contain statements such as “get him out”, “hit the road”, “get lost, poison of our people. Go back from where you were sent”. The hostility expressed in comments further spread to the Serbian Orthodox Church (SOC) in general, and thus one comment says “more or less everyone from SOC are working exclusively against the state, people and citizens’ interest ... they should all be exiled”.

In order to truly see the potential consequences of the spread of hatred on the internet, one must take into account that the online world is mainly populated by the younger population. Recent research<sup>39</sup> shows that almost 80% of young people in Montenegro aged 15 to 24 use Facebook, where they spend an average of 2.5 hours every day. The online world proves to be dangerous ground, since the national Ombudsman’s research<sup>40</sup> shows that every fourth child in Montenegro has had some unpleasant experience on the internet, ranging from abuses to exposure to pornography. In 2013 alone, several massive fights among high school students were organized via Facebook. One of them was instigated by religious hatred between Muslim and Roman Catholic students. In another, a 16-year old was stabbed with a knife.

## 2. Reporting on minorities

Besides hatred propagated through UGC in online media directed at members of different ethnic communities, the LGBT community is another major victim of such posts. Here is one illustration. On 1 October 2012, Portal Analitika published an article entitled “Cimbaljevic: Prva Parada ponosa u Crnoj Gori sljedeće godine” (“Cimbaljevic: The first pride parade in Montenegro to be held next year”). The article reports a statement by the executive director of Progress, an NGO that deals with protection of LGBT rights in Montenegro, saying that Montenegro is ready to hold a pride parade. One of the comments posted below under the name “bokserka” (female boxer) says:

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<sup>38</sup> US State Department, *Montenegro Country Report on Human Rights Practices for 2012*, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

<sup>39</sup> Damar agency, *Svakodnevnica mladih u Crnoj Gori /Everyday life of the youth in Montenegro*, April 2013, [www.damar.co.me](http://www.damar.co.me)

<sup>40</sup> [http://www.ombudsman.co.me/djeca/docs/110420133\\_kompilacija\\_izvjestaja%20konacna.pdf](http://www.ombudsman.co.me/djeca/docs/110420133_kompilacija_izvjestaja%20konacna.pdf)

“NIKAD te parade neće biti, da cu ja prva ulećet da vas lomim tamo vjerujte mi ... Zvali vi to fasizam ili ne - zabolje me! Homoseksualnost nije urodjena, pouzdano znam... E djeca mi neće vala biti takvi . NIKAD! To je vaspitanje, sredina, način na koji odrastate i koliko roditelji značajnu ulogu tu odigraju. Vecinu njih roditelji uopšte ne spriječe, ja bih mojim kosti ....”<sup>41</sup> (This parade will NEVER happen. Even if I had to jump into the crowd to beat you up, believe me ... You can call this fascism – I don’t care! Homosexuals are not born; I know for sure ... My children will not be like that. NEVER! That is a matter of upbringing, environment, the way of growing up and the role of parents. Their parents did not prevent most of them. I would b... my children’s bones ....).

Statements like this contribute greatly to the spread of homophobia in Montenegro, which is still coping with the problem. In its report on human rights practices for 2012, the U.S. Department of State notes that in Montenegro LGBT persons and their supporters have experienced continued discrimination, exclusion, hostile public attitudes and violence.

According to Human Rights Action, an organization that works for the protection of human rights in Montenegro, online media still contain comments posted to articles dealing with the Kosovo issue that are directed towards the Albanian minority, and which can be treated as hate speech. In addition, comments representing hate speech can be found under articles on sport matches played by teams of ex-Yugoslavian countries.

### 3. Anonymity and cyber-hate

As Media Self-Regulation Council monitoring reports show, abusive language and hate speech in online media in Montenegro is almost exclusively due to UGC. All three major news portals in Montenegro allow for users’ comments to be posted, after the user is registered. Registration requires users’ name and e-mail address, and comments are later posted under a username selected by the user. Aida Ramusovic, ombudsman in TV Vijesti which uses the Vijesti portal together with the *Daily Vijesti*, said that the portal has a base of over 30,000 registered users and that the portal’s editorial board knows the e-mail and IP address of the commentators.<sup>42</sup> Users are not obliged to give their real names, and no users personal data,

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<sup>41</sup> <http://www.portalanalitika.me/drustvo/vijesti/75493-cimbaljevi-prva-parada-ponosa-u-crnoj-gori-sljedee-godine.html>

<sup>42</sup> This statement was given during the roundtable discussion “Addressing online hate speech and the role of media accountability;”, held on 24 May 2013 in Podgorica.

such as e-mail address, is shown to the public. Thus, all comments in major news portals remain anonymous in the eyes of portal readers.

#### **IV. Measures taken by media to address online hate speech**

**B**oth major portals Vijesti and CDM have staff in charge of moderating comments. As an example, the editor-in-chief of the CDM portal, Aleksandra Obradovic, said that out of 100 posted comments on an article dealing with the rights of LGBT persons, moderators blocked 25-30% of them due to the unacceptable content.<sup>43</sup> Criteria for filtering of comments are statements that incite religious and ethnic intolerance and personal insults, as well as comments that contain swearwords. Moderators in the Vijesti portal use similar criteria. This portal has very visibly stated commenting rules, which say, "Comments are posted in real time and Vijesti online cannot be held responsible for their content. Hate speech, swearing, insulting and libelling is forbidden. When noticed, such content will be deleted, and its authors may be reported to the proper authorities."<sup>44</sup> The editor of the Vijesti portal, Srđan Kosovic, said that their administrators erase 150-200 comments daily due to inappropriate content.<sup>45</sup>

Another problem identified by web portal editors and managers is the lack of qualified staff that can deal with the moderation of users' comments. In addition, online media claim that an around-the-clock moderation of users' comments would be financially exhausting for their budgets. Drasko Djuranovic, editor-in-chief of the Portal Analitika, says that they read through all comments prior to publishing them, but sometimes it happens that a comment containing hate speech slips through.<sup>46</sup> Djuranovic explains that the reason is that only he and one other person are in charge of moderating comments, and mistakes happen due to their drop in concentration.

#### **Effectiveness of these measures**

**C**urrent mechanisms used by online media, consisting of moderation of comments and publishing rules on permissible content of comments,

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<sup>43</sup> Interview made for the purpose of this Report from 4 April 2013

<sup>44</sup> [www.vijesti.me](http://www.vijesti.me)

<sup>45</sup> Interview made for the purpose of this Report from 6 April 2013

<sup>46</sup> This statement was given during the roundtable discussion "Addressing online hate speech and the role of media accountability", held on 24 May 2013 in Podgorica.

have proved to be insufficient when considering the amount of inappropriate UGC. In addition, the current practice of the major portal Vijesti, which uses disclaimers for UGC, saying that Vijesti online cannot be held responsible for users' content, is considered irresponsible in a situation where the freedom given to users is being abused. The role of moderators is also limited by the absence of clearly prescribed rules accepted by the entire media community on permissible online media content and responsibility of media.

Aida Ramusovic, ombudsman at TV Vijesti believes that the solution for combating online hate speech is to update the Code of Journalists with principles relating to this specific sphere.<sup>47</sup> That way, media would be given clear rules to adhere to. As far as users are concerned, she argues that the right approach in cases of offences is to give the user notice and, eventually, block his/her access to the portal if the behaviour is repeated.

The president of the Self-Regulatory Council for Periodical Press, Amer Ramusovic, says that, although out of their scope of work, they have received citizens' complaints related to online media and the role of administrators.<sup>48</sup> The complaints referred to the inability of commentators to publish refutations of the content of previous comments. Ramusovic believes that this is a breach of ethical principles of equality and journalists' impartiality and puts portal editors in the unacceptable and dangerous role of censors. Such complaints have not been noted by other currently functioning self-regulatory bodies, nor are there any prescribed rules for the treatment of portal users' complaints on the arbitrary nature of moderators' decisions. However, international recommendations, such as those given in the Declaration on Freedom of Expression and the Internet, state that Internet intermediaries should be required to be transparent about any traffic or information management practices they employ.<sup>49</sup>

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<sup>47</sup> Ibid.

<sup>48</sup> Interview conducted for this report on 4 April 2013.

<sup>49</sup> The Declaration on Freedom of Expression and the Internet, adopted by the United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, on 1 June 2011, states the following:

- Network Neutrality
- a. There should be no discrimination in the treatment of Internet data and traffic, based on the device, content, author, origin and/or destination of the content, service or application.
  - b. Internet intermediaries should be required to be transparent about any traffic or information management practices they employ, and relevant information on such practices should be made available in a form that is accessible to all stakeholders.

Concerning joint regulatory efforts by the media community, the Media Self-Regulation Council is currently the only self-regulatory body that deals with online hate speech.<sup>50</sup> The entity's secretary, Ranko Vujovic, says that their powers are limited to the noting of hate speech cases and informing the public of these occurrences.<sup>51</sup>

The coordinator of the human rights program at Civic Alliance, Milan Radovic, expects the media to take a more serious approach to this problem.<sup>52</sup> Expressing his doubts on the effectiveness of the current disunited self-regulatory mechanisms, he says that media should become the first and most important filter for hate speech. Radovic also believes that the main problem lies in inadequate legislation, which does not recognize online hate speech as a criminal act, but also that the problem is systemic in nature. He explains that inadequate coping with the past, which was marked by religious and national hatred instigated during the civil wars in the 1990s; the break-up of the ex-Yugoslavia and finally of the state union of Montenegro and Serbia; have made this problem grow. Radovic argues that the state should take a no-tolerance stance and that all examples of hate speech, "from street graffiti to online media posts, should be processed by police and fully prosecuted in the courts." He continues that, "severe punishments for hate speech would not jeopardize freedom of expression. On the contrary, it would be a contribution to freedom of speech and democracy." This stand, however, should also be taken with reserve, considering the fact that Montenegro decriminalized libel only in 2011, following a period of practice where libel claims were unreasonably high, threatening to endanger media survival. For example, a lawsuit filed in 2008 by PM Milo Djukanovic against Zeljko Ivanovic, founder and director of the daily *Vijesti*, amounted 1 million Euros in damages for "mental suffering" caused by defamation stemming from comments Ivanovic made after he was attacked by unknown assailants. Ivanovic, believing his attack was related to his work, publicly blamed Djukanovic for creating an environment of impunity.<sup>53</sup>

In an interview with Milos Lalevic, representative of the Ministry of Culture's media sector, he noted that Montenegrin media legislation already forbids all forms of hate speech in media, but that improvements are likely to be made during the on-going process of negotiations for accession to the

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<sup>50</sup> Human Rights Action 2013 Report "Monitoring of Journalistic Self-Regulatory Bodies in Montenegro", <http://www.hraction.org/?p=3149>

<sup>51</sup> Interview made for the purpose of this Report from 5 April 2013

<sup>52</sup> Interview made for the purpose of this Report from 4 April 2013

<sup>53</sup> 2008 Montenegro Report on Freedom of the press, Freedom House,, [www.freedomhouse.org/report/freedom-press/2008/montenegro](http://www.freedomhouse.org/report/freedom-press/2008/montenegro)



European Union.<sup>54</sup> In the forthcoming period, Montenegro will start drafting strategic documents for normative and institutional harmonization with European standards and practice in the area of the information society and media, which would be a space for addressing the fight against online hate speech.

Regarding current mechanisms for fighting online hate speech, Lalevic says that, “in line with European standards, the role of the state in media regulation is set to a minimum”, and that instead “Montenegro has created a self-regulatory framework. The three self-regulatory bodies that have been formed in the past year should be a starting point for building firm mechanisms for penalizing online hate speech.”<sup>55</sup>

One of the suggestions discussed with editor of major news portals was changes of the Criminal Code that would financially punish online hate speech, libel and insults, similar to those that have been adopted in neighbouring Croatia, which has recently joined the EU. Opinions among the online media community vary. The editor-in-chief of the CDM portal, Aleksandra Obradovic, said that she would support it, confessing however, that the number of comments in portals would diminish.<sup>56</sup> The editor of the newly established portal of PBS RTCG, Slavko Djurdjic, however, argues that he would not support such a law, since it would pose a threat to freedom of expression considering that “in practice it is often hard to define what represents hate speech. Such a situation would potentially lead to arbitrarily hurting the freedom of expression.”<sup>57</sup>

## Recommendations

Montenegrin legislation should be improved by providing a legal definition of online hate speech. The most obvious way is through changes to the Criminal Code, which should be amended in line with the Council of Europe’s Additional Protocol to the Convention on Cybercrime concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems. Parallel to changes in legislation, necessary capacities both in the police and prosecutors’ offices should be built.

The Agency for Electronic Media, as a state regulator with powers to deal with online media, should draft a rulebook on programme standards in

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<sup>54</sup> Interview conducted for this report on 3 April 2013.

<sup>55</sup> The current situation in the area of media self-regulation is described in previous chapters.

<sup>56</sup> Interview conducted for this report on 4 April 2013.

<sup>57</sup> Interview conducted for this report on 4 April 2013.

online media, or amend the existing rulebook on programme standards in electronic media.

Self-regulatory practice in Montenegro should be aligned with good practices in this area. The best solution would be the re-establishment of a single national self-regulatory body that would bring together all major media. If it proves impossible to include all major media in the Media Self-Regulatory Council, which is currently the only active organization with such potential, the Press Council should begin operation. In the latter case, the state, as sole financier of MSC, should not favour any self-regulatory body when it comes to financial support. Regarding funding, the support of international organizations', such as OSCE's involvement with the Journalists' Self-Regulatory Body, has proved to be a viable model.

The establishment of functional a self-regulatory body or bodies that could be considered representative of the entire media community is a prerequisite for amendments of the Code of Montenegrin Journalists. Only such a body or bodies could be regarded as legitimate implementers of the code with the authority to make amendments. Provided this prerequisite is met, the code should be amended to include principles specific to online media.

Individual online media outlets should step up efforts to eliminate hate speech contained in UGC. This should be done through moderation of comments and establishing and displaying clearer rules for commenting. To solve the existing dilemma on the responsibility of web portals for users' comments, these media outlets should adhere to principles agreed by major portal editors on the roundtable "Addressing online hate speech: The role of media accountability mechanisms", held in Podgorica on 24 May 24 2013. That principle states that the portal is not responsible for comments that contain hate speech at the moment of its posting, but it would be held responsible if it does not remove the comment when noticed or reported.

# Hate speech in online media in Serbia

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## **Main information on regulation of hate speech in Serbia**

**Internet penetration in the country:** In 2013, 59.9% of the population had a computer in their home and 55.8% used the internet at home (Statistical Office of the Republic of Serbia).

**Total population:** 7,181,505 (Statistical Office of the Republic of Serbia, 2013)

### **Most read online media outlets:**

RTS ([www.rts.rs](http://www.rts.rs)); RTV ([www.rtv.rs](http://www.rtv.rs)); PRVA SRPSKA TELEVIZIJA-TV PRVA ([www.prva.rs](http://www.prva.rs)); B92 ([www.b92.rs](http://www.b92.rs))

**Laws:** (Constitution, Articles 15, 21, 100; Statute of the Autonomous Province of Vojvodina)

Chapter II: The exercise of human and minority rights

The prohibition of discrimination

Article 20

Prohibits any kind of discrimination, direct or indirect, on any grounds, particularly on the basis of race, sex, nationality, social origin, place of birth, religion, political or other orientation, property status, culture, language, age and mental or physical disability.

*Anti-Discrimination Law*

Article 9

It is forbidden to write and display in public places or to in any way spread messages and symbols referring to discriminatory behaviour towards other people.

### **Media specific laws/regulations:**

*The Public Information Law*

Prohibition of hate speech

Article 38

It is forbidden to publish ideas, information and opinions that stimulate discrimination, hatred or violence against a person or a group of people on account of their race, religion, nationality, ethnicity, gender or sexual orientation, regardless of whether publishing of it is considered a criminal act or not.

*Law on advertising*

No one can refuse to publish, or broadcast advertisements based on racial, national or ethnic origin, gender or other personal characteristics of the person seeking to publish or broadcast advertisements.

### **Self-regulatory body supervising the Code:**

The Press Council is an independent, self-regulatory body that gathers publishers, owners of print media and professional journalists.

### **Media included in the self-regulatory system**

See the list in ANNEX 1

### **Examples of media that have established terms and conditions for online comments:**

RTS ([www.rts.rs](http://www.rts.rs)); RTV ([www.rtv.rs](http://www.rtv.rs)); B92 ([www.b92.rs](http://www.b92.rs))

## I. Media landscape and importance of online media

According to a Freedom House study, “Serbia holds 75th to 77th place on the freedom of media scale” (Pejović, Dragana (2012). The triumph of self-censorship. *Nin* 1. 11. 2012, pp. 54-55).

IREX measured Serbia’s media sustainability index in 2011 to be 1.93 on a scale from 0 to 4.00, thus categorizing Serbia’s media sector within the group of unsustainable mixed systems with an index ranging between 1.51 and 2.00. When the media sustainability index is produced, any breach of the requirement of non-discrimination in all forms of media is considered. One indicator of hate speech is the lack of pluralism when it comes to sources of information (Media Sustainability Index 2012).

The degree of media professionalism and use of intolerant language in Serbia is most visible during election cycles, as for example in 2012, when elections took place at all levels of government, including for president. According to research reports, media coverage was non-critical and often depended on the political and economic power centres.

Discrimination in the media during the elections was related to:

- a) The unbalanced treatment of the participants in the campaign, as evidenced by the inadequate and inequitable provision of places, spaces and rank in the coverage of preferred participants in the campaign, most often ruling political parties. (Pralica 2012);
- b) The non-critical broadcasting of negative political campaign clips that contained direct hate speech towards the opposing parties (Valic Nedeljkovic 2012). Video clips made during political campaigns often focus on alleged weaknesses in the other parties instead of promoting their own political programme. There were examples of clips embedded in party websites with links to YouTube, which led to the multiplication of hate speech distributed both online and in broadcast media.

“Most journalists in Serbia have for several years now negatively assessed freedom of the press. Among more than 240 news media editors, interviewed in late 2011, only 6 (2%) believe that media freedom and journalists’ rights were fully enjoyed in the previous year, and 21% said that only sporadic incidents occurred. About three-quarters of journalists (72%) think that Serbia has a big problem in terms of media freedom: there are serious obstacles to its implementation (67%), or no conditions for it (5%) ...

Institutional protection of freedom of expression and freedom of the media is inconsistent and insufficient” (Matic, 2011: 14).<sup>1</sup>

The results of the above-mentioned research reports show that even though the media situation in Serbia is considered as somewhat poor, freedom of the press in Serbia has nonetheless been achieved to some extent. At the same time, however, it is obvious that the degree of professional and responsible journalism is still quite low. The scientific research focus of this paper is more on freedom of the media and less on their responsibilities.

The *Media Freedom of Serbia in the European Mirror* research project indicated that only four out of 27 indicators of media freedom are in full compliance in Serbia: the freedom to engage in the profession of journalism, separation of participation in executive bodies from professional media activities, free Internet access and the limited rights of the media to exclusive reporting (Matic 2011:8). The most endangered indicators are the protection of the right to freedom of expression and freedom to criticize government officials (Matic 2011:9).

The *Strategy for the Development of the Public Information System in the Republic of Serbia until 2016* foresees the full withdrawal of the state from media ownership in the short term. In Serbia, existing media laws are currently being completely redefined (the 2002 Broadcasting Law, the 2003 Law on Public Information, and the 2010 Electronic Communications Law).

According to the Media Association, which brings together 13 newspaper publishers with nine daily newspapers, 130 magazines and two news agencies, the number of newspaper titles in Serbia has since 2009 declined by more than 50% (from 427 in 2009 to less than 200 at the end of 2011). Some were completely shut down, while others moved to online editions. The economic crisis first hit the press hard and then slowly but negatively affected the number of journalists in the electronic media (<http://www.asmedi.org>).

Several media associations and state institutions, such as the Serbian Business Registers Agency ([www.apr.gov.rs](http://www.apr.gov.rs)), list the number of active media in Serbia. According to the address book of the Media Center Belgrade ([www.mc.rs](http://www.mc.rs)), the number of active portals registered in the Serbian Business Registers Agency are: 131 online media portals, 9 news agencies, 10 photo agencies, 46 magazines and journals, 17 weeklies, 15 written diaries/blogs, 25 radio stations and 24 television stations.

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<sup>1</sup> Research on media freedom conducted by the Association of Independent Electronic Media (ANEM); Independent Journalists Association of Serbia (NUNS); Independent Journalists Association of Vojvodina (NDNV); Local Press.

On the website [www.radiostanica.com](http://www.radiostanica.com), products from 142 online radio stations can be found. Some broadcast terrestrially, but most are active only on the internet. According to [www.Beograd-Online.info](http://www.Beograd-Online.info), 40 television channels can be watched online, comprising both channels that broadcast terrestrially and online only.

Recent research conducted by IAB Europe in the report “Mediascope Europe 2012” shows that 3.2 million Serbian citizens over 16 years actively use the internet, comprising 52% of the Serbian population. The study finds that, “When it comes to the use of other media apart from internet, television is leading with a penetration of 98% in Serbia, followed by daily newspapers 64%, radio 59% and 48% of magazines. (...) The most common internet access device is a personal computer, but there has been an increase in the number of Internet users who have access via mobile phone (14%) and tablet computers (2%) ... In addition, 77% of users follow the television over the Internet, 80% listen to the radio over the Internet, and as much as 95% read news on the Internet”. (<http://www.iabeurope.eu/research-and-papers/mediascope-2012-pan-european-launch-presentation-summary>).

## **II. Regulation of hate speech**

### **1. The general legal framework**

**T**he Constitution of Serbia (2006) bans all forms of discrimination, and the Vojvodina Statute (2009) also prohibits discrimination of any kind, direct or indirect. This Constitution (2006) and Statute (2009) prohibit any kind of discrimination, direct or indirect, on any grounds, particularly on the basis of race, sex, nationality, social origin, place of birth, religion, political or other orientation, property status, culture, language, age and mental or physical disability.

Article 9 of the Anti-Discrimination Law (2009) specifically prohibits and punishes causing, encouraging and inciting national, racial, religious or other inequality, hatred, discord or intolerance, or advocating and intentional discrimination by state authorities in government processes, through the media, in political life, in the provision of public services in the areas of employment, education, culture, sports and the like. Article 9 essentially prohibits hate speech, proclaiming that “it is forbidden to print and display in public areas and to otherwise disseminate messages and symbols referring to discriminatory actions against other persons.”

## 2. Media specific regulations

All media laws prohibit discrimination. Article 38 of the Public Information Act (2003) states that, “it is forbidden to publish ideas, information and opinions that incite discrimination, hatred or violence against a person or group of persons because of their belonging to a race, religion, nationality, ethnicity, gender or sexual orientation, regardless of whether the publication causes a criminal act or is considered to be one.”

The Law on Advertising specifies in Article 7, “Advertising may not, directly or indirectly, incite discrimination on any grounds.”

The State Broadcasting Agency that monitors electronic media has the power to analyse broadcasting on the internet. For now, there is a legal vacuum for the regulation of the internet when it comes to the portals of public media.

Since 2012, the Ministry of Culture and Information has worked intensively on the development of new media laws. A new feature of the Law on Public Information and the Media, adopted in August 2014, is a clear definition of the public interest and a requirement that any media service that receives direct funding by the state must establish its public interest.

While good legislation limits the possibility of the use of hate speech in the media, legislation that has been in the process of being redefined for many years opens the door to various types of manipulation.

The new law on electronic media will regulate the media on the internet as well as blogs, which will need to be registered as media. This will ensure that bloggers will be held accountable for what they publish. Under the new law, all media on the internet will be regulated, and the Republic Broadcasting Agency will be mandated to supervise this regulation, which clearly expands its field of authority.

### *The Republic Broadcasting Agency*

The Republic Broadcasting Agency (RBA) is an independent regulatory body that focuses on electronic media. It was founded in 2003 in accordance with the Broadcasting Law (“Sl. glasnik RS” br. 42/02, 97/04, 76/05, 79/05-dr. zakon, 62/06, 85/06, 86/06 – ispr. i 41/09), with the goal of ensuring the effective implementation and improvement of the broadcasting policy in the Republic of Serbia, in a manner befitting a democratic society and integration needs.<sup>2</sup>

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<sup>2</sup> <http://www.rra.org.rs/english/about-us>, website visited on 11 April 11 2013.



RBA is an independent legal entity and is functionally independent of any governmental body, as well as of all organizations and persons involved in the production and broadcasting of radio and television programmes, or related, ancillary or derivative activities. The responsibilities of the RBA are set out in the Broadcasting Act and the by-laws.

In an interview conducted for this research paper, Kalman Kuntic of the Provincial Secretariat for Culture and Public Information of the Autonomous Province of Vojvodina stated that the Agency is an independent regulator and that if someone were to address the issue of hate speech it would certainly have to be the RBA.

“At this moment we have a problem and a dilemma about what will be registered as an electronic media, and what won't; that will determine who will be a subject to which regulatory and legal frameworks. An increasing number of registrations of internet newspapers / magazines / portals is expected, and that is why this law needs to be defined as soon as possible. Hate speech is a topic which we will have to address more frequently,” Kuntic added, saying that the responsible ministries, within their jurisdiction, have to deal more with this issue.

In order to protect the public, especially minors, from inappropriate and offensive content, it was agreed that all complaints made by citizens to RBA about the content of print media should be forwarded to the Press Council. (<http://www.savetzastampu.rs/latinica/>)

### **3. Media self-regulation framework**

**T**here are several journalistic codes of ethics in Serbia that were agreed upon and passed by the four active journalists' associations. These codes also underscore that hate speech is unacceptable in media practice. (Valić Nedeljković, D. (2011)). They express the point of view of the profession, namely that “media self-regulation is a chance to raise professional standards” (“Medijska samoregulacija šansa za podizanje profesionalnih standarda u Srbiji”).

The weakness of these codes is that they are not binding for all journalists, editors and owners of electronic media, and they do not provide mechanisms to respond if there is a breach of the code. The code applies only to the members of the associations of journalists, meaning that bloggers and users of online media portals who leave comments with hate speech are exempt from the obligation to adhere to the ethical rules of journalists.

The Press Council is an independent, self-regulatory body that gathers publishers, owners of print media and professional journalists. It was established to monitor observance of the Code of Journalists of Serbia in print media and to solve complaints from individuals and institutions related to content in print media. The Council has a “Complaints Committee”, which deals with concrete cases related to articles, photographs, and other print media content, their websites, web portals and news agencies. The Press Council is also authorized to mediate between aggrieved individuals, institutions and editorial staff, and to publish warnings in cases when the Code of Ethics has been broken. The service of the Press Council is free for those who file complaints.

One can file a complaint related to the following types of content:

- Texts and photos published in the daily and periodical press, including on their websites, as well as on news portals and news agencies
- Audio recordings on news portals and online editions of print media
- Letters from readers

In order to protect the public (especially minors) from inappropriate and offensive content, it was agreed that all complaints made by citizens to RBA about the content of print and online media be forwarded to the Press Council.

### **III. The extent and nature of hate speech in online media**

Traffic to online media in Serbia has increased significantly in the last three years. The emergence of smart phones and applications for using online media certainly go in favour of this. A recent study conducted with a sample of more than 3,000 students as part of the “Stop the digital violence”<sup>3</sup> project, showed that more than 90% of young people from 8 to 18 years old have a mobile phone with an internet connection, and that Facebook is used every day by more than 80% of young people. It is alarming that 24% of students say they have experienced harassment over mobile phone or the internet.

To a large extent, these results were mainly related to social networks and blogs. The situation is a bit different concerning the registered online editions of the media. The major television networks in Serbia have their own web portals that include the overview of the programme, current topics

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<sup>3</sup> “Stop the digital violence” project, <http://www.unicef.rs/zaustavimo-nasilje-zajedno.html>, website visited on 10 April 2013.

and blogs. Hate speech can be found in the comments about current issues posted on the web portals of television stations, print media, radio and on registered blogs (Valić Nedeljković, Dubravka 2013).<sup>4</sup>

#### **IV. Measures taken by media to address online hate speech**

##### *Measures taken by online media*

**I**nternet portals of the leading TV stations in Serbia have a well-structured editorial policy. The content of their sites correspond to their daily broadcasts; they are informative and address current issues. In addition, the internet portals also contain daily programme schedules, videos, sports and entertainment sites, as well as blog sites. A moderating service is responsible for moderating readers' comments and for checking user registration. Every user or reader who wants to leave a comment must first register with the media portal and leave their email address, so that the customer could be permanently removed in case of abuse or hate speech. Radio Television B92 has the most complex web portal structure and the most diverse range of topics and blogs.

The most visited TV portals in Serbia are:

**RTS (www.rts.rs)** – the web-portal of the public broadcaster of Serbia. The portal contains an overview of current events, news reports, television programmes, RTS magazine, RTS Radio, RTS Live and RTS Blog. The editorial teams of RTS update daily content and comments on their web site. As the web site of the Serbian public broadcaster, the site is not known as a place where one comes across hate speech. Usually, hate speech only appears in comments on the blog pages. Such comments are removed by the moderating service, and there are only a few cases where the moderators have not spotted hate speech. The RTS blog is written by RTS journalists and reporters, whose articles are subject to the journalistic code and editorial board of RTS, which effectively prevents hate speech.

**RTV (www.rtv.rs)** – the public broadcasting service of Vojvodina, which broadcasts television, radio and multimedia programmes in Serbian and

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<sup>4</sup> “Fears and hopes related to the EU: Discourse strategies of the comments on the Politica’ears and hopes”. In: *Europe Here and There: Analysis of Europeanization Discourse in the Western Balkans media*, edited by Dubravka Valialysis of Discourse strategies of the co: Filozofski fakultet, Univerzitet u Novom Sadu. 147-159).

the languages of national minorities. In addition to current events, news, TV and radio programmes, RTV also has a blog, which is, however, not in use. In fact, both public broadcasters, the public broadcaster of Serbia RTS and the public broadcasting service of Vojvodine, are not exposed to hate speech on their internet sites within user comments. In addition to the fact that their moderation services actively work to remove such comments, this absence of hate speech can be explained by the fact that these web portals primarily publish informative articles that are not provocative in their content.

**PRVA SRPSKA TELEVIZIJA-TV PRVA (www.prva.rs)** – the internet portal provides an overview of the latest news, current affairs, television programmes, video programmes and a blog. As in the case of the public broadcasters, blog contributors include celebrities, mostly reporters who have their own shows on the station; the topics on the blog are not structured and the majority of comments are positive. Negative comments do not cross over to hate speech and are almost always argumentative and merely represent personal statements. This indicates that the moderators of this site perform their job appropriately. However, it must be emphasized that the selection of topics does not have a provocative character, meaning they do not address the current ‘tricky’ contentious issues.

**B92 (www.b92.rs)** – The websites of B92- Television and Radio are currently the most visited among the internet media broadcasters. Some of the reasons for the popularity are the rich and complex site structure, addressing current affairs and featuring a diversity of authors. The transmission of Radio B92 programmes makes this the most comprehensive portal because it includes the latest news related to sports events, economic, cultural events, lifestyle, videos, travel, cars, technology and health. As with the web portal of the public broadcasters, hate speech is not present in the articles published on the website, however it is sometimes found among the user comments, and mostly on the B92 Blog. Public persons featured on the VIP B92 blog are under no contractual obligations and do not have deadlines or a predetermined number of articles they are expected to publish. Usually each author covers a set of preferred themes, yet given the free-form nature of the blog, it is not unusual that, for example, established political columnists also consider other themes.

Asked whether the articles on the blog are subject to any type of selection or other editorial interventions, the editor, Vesna Dozet, said during an interview with the author of this paper, that the editorial team does not see the blog articles before they are published. The authors are free to choose

the subject, write and publish the articles. The same holds true for reader comments on the blog. However, both articles and comments are subject to “delayed moderation” by the editorial team or the users of the blog.

“All comments appear in real time – not moderated. On the B92 VIP blog we have the so-called ‘delayed moderation’. All registered users have an option to report any comment that they deem inappropriate in regard to the established policy: <http://blog.b92.net/disclaimer/>. The moderators can individually ascertain whether a particular comment is inappropriate and subsequently delete it,” stated Ms Dozet, adding that, “The freedom of speech on the blog means the freedom to write well-thought and corroborated comments that serve to explicate the authors’ argument. Regular users do not have a problem with that, because persons unable to conform to established norms and those exhibiting the tendency to use explicit hate speech remain regular users only briefly, and are usually blocked from the B92 VIP blog.”<sup>5</sup>

Ms Dozet added that it is easy to identify hate speech, which is usually unable to provide clear arguments and mostly exposes only slogans or quotes from obscure websites, illiterate comments, or comments written exclusively in capital letters or whose authors have only recently registered on the B92 VIP blog. This makes the users whose goal is the dissemination of hate speech on the B92 portal easily apparent.

“In cases where an article bluntly breaches the terms of the ‘Republic Broadcasting Agency’ or breaches the ‘B92 Terms of use and editorial policy’ - it is deleted. For example: an article where the author cites his correspondence with a person that has not expressed consent for the correspondence to be published,” said Ms Dozet.

### *Print media online*

According to official statistics, there are more than 30 registered print media online in Serbia. This figure includes online versions of daily newspapers, magazines, weeklies and other publications. As mentioned above, the Press Council, which was established in 2009 as an independent self-regulating body, also deals with the online sites of the print media.

In registered online print media, hate speech is usually found in the comments. Unlike traditional print media, the internet allows the readers to “communicate” with the authors of the articles. The readers of traditional print newspapers often express their opinion over the Internet and on the newspapers’ online pages. For this very reason, the moderators actively

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<sup>5</sup> The interview with Vesna Dozet, editor of the B92 VIP Blog, was conducted for this project on 6 April 2013.

select comments and registered users. The features that allow vote ranking of commentaries and the features that allow for a comment to be reported to moderators, allows the moderators to react more promptly. What is very important to understand is that network operators cannot be responsible for anything other than the technical regularity, but those who regulate the content can, and therefore they must have a status of an editor. Luckily, these days hate speech is not common on the internet pages of registered print media. This shows that the process of registering users before they can leave comments, prompt responses by moderators, and the active work of the Press Council are making progress in “clearing” online media space from hate speech.

The most read print media in Serbia are Blic, Kurir, Vecernje novosti, 24 sata and Press. The editorial policy of their online editions is to moderate comments, but this is often not done promptly or with sufficient care. When it comes to internet editions of print media, comment moderating is often not up to date. By providing an option to comment on other users’ comments, the editors have left space for users to evaluate the comments themselves and decide which comment is appropriate and which is not.

#### *The self-regulatory body*

The Press Council was established in 2009 as an independent self-regulating body whose jurisdiction includes print media, informative portals and online editions of print media. A frequent problem in Serbia is the huge number of unregistered media content providers. These are online news sites that have a following but are not registered as media organizations. They have their own editorial policy and a hierarchy of editorial responsibilities, yet they are not registered or treated as media and thus they are not constricted by the laws and regulations regarding the media’s code of conduct. These websites usually cover a limited scope of subjects. This does not increase the risk of hate speech in websites that cover, for example, themes related to the environment. However, on web portals that have a political, national or religious affiliation hate speech is often prominent.

#### *Measures taken by international institutions*

Given the importance of protecting young people from all forms of harassment, as well as the wish to make the internet a safe place for everyone, Serbia launched a national campaign against hate speech on the internet on 20 March 2013, two days before a pan-European campaign was launched by the Secretary General of the Council of Europe.

It can be noted that as of 2013 35 member states of the Council of Europe had established national committees or were in the process of doing so, and

that Serbia was the first country where it was done. The National Committee is the body responsible for managing the campaign at the national level, and it consists of representatives of institutions, civil society, media, and the professional community. The Committee is chaired by the Minister of Youth and Sports, Alisa Marić, and Deputy Secretary of State, Nenad Borovčanin. Among the members are representatives of the Ministry of the Interior; Ministry of Justice and Public Administration; Ministry of Education, Science and Technological Development; Ministry of Culture and Information; Ministry of Labour and Social Policy; the Special Prosecutor's Office; and representatives of youth organizations.

The campaign aims to show that the targets of hate speech are not virtual, but real people, and that hate speech causes tragedies in real life. All the traces a person leaves in cyberspace will not just go away by pressing a button to turn off the computer. The goals of the campaign are therefore to inform, educate, and stimulate the recognition of and responses to this topic.

“The aim of the campaign is to raise awareness about hate speech - what it is, where it comes from and how to stop it, and also - what its consequences in real life are. One of the best ways to do so is a national campaign that will change the consciousness of society, with the involvement of all the relevant factors in the country, as well as the education of children and their parents, who often do not pay attention to what their children are doing on the internet. The participation of the Ministry of Education, Science and Technology is especially important because they recognized the severity of the problem and approved the participation of teachers and professors who are in daily contact with young people. By continuing with this action we want to turn the light on in the dark parts of the internet so that hate can be replaced by love,” said Nenad Borovčanin.<sup>6</sup>

The Committee has set up campaigns in several areas. It is conducting research, running the “Youth and the Internet” campaign, monitoring online activities, and debating changes in the current strategic and legislative framework.

Shortly after the start of the campaign the “Youth Initiative for Human Rights” organization sent an open letter to the president of the Committee and the Minister of Youth and Sports,<sup>7</sup> from which the following extract was taken:

“The Youth Initiative for Human Rights welcomes the decision to establish the National Committee for the campaign against the hate speech on the

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<sup>6</sup> “Kurir”, daily newspaper online, article published on April the 14<sup>th</sup> 2013, <http://www.kurir-info.rs/zaustavimo-digitalno-nasilje-protiv-govora-mrznje-clanak-742767>

<sup>7</sup> Open letter published on 23 March 2013, Youth Initiative for Human Rights website, <http://rs.yihr.org/rs/article/1037/>

Internet. We believe that the suppression of hate speech on the Internet is an extremely important job; a violation of the law that occurs 'online' - from abuse and copyright infringement to threats, discrimination and hate speech - it is all very difficult to track and process. It seems that the vast majority of Internet users is aware that they cannot be held responsible for the words and opinions published on the Internet.

On the other hand, we are concerned that the Committee might lose its legitimacy before they can begin serious work, due to the choice of some members of the Committee. We strongly believe that members of the Committee should be the ones who have to set the standards when expression on the Internet is concerned and should do so by publicly condemning hate speech and not allowing that kind of communication on their personal profiles on social networking websites.”

The Initiative warns that some of the statements that can be seen in the open Facebook profile of Mario Maletić, a member of the Committee, represent precisely the kind of statement for which the Committee was founded to fight. The open letter continues, “Although the statements of hatred, intimidation and discrimination were not said by Maletić personally, but by his Facebook friends, we believe that each member of the Committee needs to be guided by their professional and moral code and to clearly and unambiguously distance himself from such statements. Also, he mustn’t make those kinds of comments available on his account but rather delete them, if he wants to be considered an adequate representative of the Republic of Serbia in the fight against hate speech. We believe that the members of this body must be role models, and that they must clearly know the meaning and importance of the concept of hate speech. Their commitment to the fight against hate speech must be sincere and long-term, and it should be fought even outside the office of the Committee and after hours.”

This discussion highlights the need to have a more precise definition of the term “hate speech” in Serbia. In contrast with the precision of the legislation, the line between “personal view” and hate speech is still unclear in practice.

“Hate speech is very common in online media publications and blogs. It can be found in texts of various authors who use their blogs to express their opinions and vent their frustrations, but it also appears in different forms of malicious reader comments. This latter form is much more common,” said Goran Mirkovic, a journalist at the online newspaper *Njuznet* and an active freelance blogger.<sup>8</sup>

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<sup>8</sup> Interview with Goran Mirkovic, journalist and blogger, conducted for this project on 8 April 2013.



Mirkovic stated that, "hate speech is most widespread on personal blogs, as it is the easiest way to publish on the internet. Most blogs unfortunately are not a part of the mainstream media, and therefore have no editorial policy and cannot be held responsible for the content of the text contained in them. If the blog is not in the form of a classic diary or if it has a specific theme, then it requires an established specified form of writing and content that needs to be promoted and a strict editorial policy. That's a problem for the entire internet, not just a blog. Hate speech on the internet is produced out of sheer thoughtlessness and the luxury of the individuals who anonymously write their opinions. In compliance with the legal sanction and the frequent lack of editorial and publishing policies on online portals and blogs leaves room for the uncontrolled expansion of hate speech," Mirković added.

## Recommendations

**A** directive on audiovisual media services would offer a solution on how to regulate online-only electronic media that were not founded as online versions of a traditional newspaper, radio or television. Media must be defined on the basis of the principle of editorial responsibility and professional journalistic standards. All online media must have defined roles and responsibilities established.

Public media/mass media must be separated from private initiatives, including citizen journalism and those who disseminate information based on their right to freedom of expression.

For corporate media, online editorial responsibility must bind all of the content on the media portal, not only journalistic content. The content should also be held accountable to the existing codes of ethics for print and broadcast media. As for individuals' use of their right to free speech via the internet, this is to be regulated through the normal legal provisions in relevant laws. There is a grey zone in regard to the larger, more structured blog-sites. Sandra Simonovic, editor-in-chief and founder of ETC Marketing and owner of the Snajderskaradionica Belgrade, has said that large, complex blogs should also be treated as media: "A blog is a medium; it serves as an informative portal where people exchange information, and it should have its own systems of protection against hate speech."

According to a representative from the Provincial Secretariat for Culture and Public Information of AP Vojvodina, Kalman Kuntic, the RBA will extend its area of administration and acquire authority to closely monitor and regulate online media. However, the fact that we still do not have a precise

definition of what falls under the term “online media” and what authority they should report to remains an obstacle for clear regulation procedures.

One must deconstruct the concept of public media as a tool for public information in order to understand its meaning in a technical and contextual sense. It is undoubtedly impossible to avoid the personal initiative of individuals who are not motivated by journalistic ethics, but such individuals are nonetheless bound by laws if they pollute the public sphere. People must know who professional communicators are because they traditionally trust them more. Content that has the trademark of a public media company must be regulated, co-regulated and self-regulated, regardless of whether it is in a news or journalistic column, a blog post, a comment from a user of a news web portal. Editorial responsibility must bind all of the content on the media portal, not only journalistic content.

### ***Media and journalists:***

- Journalistic associations should hold training sessions for journalists on the topic of hate speech in the media.
- Journalistic associations and ethics committees should react to the hate speech in online media.
- The media themselves should create editorial mechanisms that will exclude hate speech.

### ***Legislative branch:***

- The legislative branch of government should adopt the preliminary draft law on electronic media as soon as possible since it has been in process from 2008.
- Media legislation should include provisions for media on the internet.

### ***Civil society:***

- Civil society should perform continuous monitoring of the media, including social media websites, and address the results.
- Civil society should position media and information literacy as a necessary educational unit in the educational system of the 21st century.
- A training center should be opened (possibly online), focusing on media and information literacy in order to create awareness among children and youth.

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## ANNEX I

### Media under the jurisdiction of the Press Council

*The Press Council is an independent, self-regulatory body that gathers publishers, owners of print media and professional journalists. It was established to monitor observance of the Code of Journalists of Serbia in print media and resolve complaints from individuals and institutions related to the content of the print media. The Press Council is also authorized to lead mediation between aggrieved individuals, institutions and editorial staff, and pronounce public warnings in cases where it has determined that the violation of ethical standards defined by the Code of Journalists of Serbia has occurred.*

#### **Daily Press**

Alo  
Blic  
Večernje novosti  
Evropske novosti  
Dnevnik  
Politika  
Press  
24 sata  
Sportski žurnal  
Sport

Pravda

Magyar Szo

Naše novine

*Informers*

#### **Magazines**

Vreme

NIN

Tip

Zov

Kalibar  
Treće oko  
Enigma  
“CorD” magazine  
Lovac  
Cosmopolitan  
Elle  
Men’s Health  
Moja lepa bašta  
Moj stan  
National Geographic Serbia  
Sensa  
Burda Style  
Lisa  
Story  
Gloria  
Mama  
Bilje i zdravlje  
Oglasne novine

### **Local media**

Bečejski mozaik  
Čačanske novine  
Čačanski glas  
Glas Podrinja  
Grad  
Kulska komuna  
Lozničke novosti  
Moj Kovin

Morava pres  
Naše novine  
Nove knjaževačke novine  
Novokneževačke novine  
Palanačke - Nezavisne varoške  
novine  
Panorama,  
Pančevac  
Podrinske  
Pirotske novine  
Polimlje  
Porodični krug / Csaladi Kor  
Reč naroda,  
Revija Kolubara  
Sloboda, Pirot  
Somborske novine  
Sremske novine  
Svetlost  
Tibiskus  
Vesti, Užice  
Vranjske novine  
Subotičke novine  
Zrenjanin  
Nove kikindske novine  
NS Reporter  
Bačkopalananački nedeljnik  
Nova slobodna reč

### **Note about the methodology and about the research**

Hate speech in the media is reflected in (a) an *unbalanced use of media characteristics* and (b) in a *use of intolerant language* (Valić Nedeljkovic 2010).

(a) The *unbalanced use of media characteristics* is related to place, space and rank that the information is given in newspapers, on the radio and TV, and in internet media portals; how the information is presented (title, heading, subheading, photographs, audio and video quotes); and whether it is (or not) allowed for online users to comment on the content.

(b) *Use of intolerant language* is related to (I) vocabulary and (II) discourse strategies. The vocabulary is explicit and thus easy to detect. Discourse strategies are a subtler manner of discriminatory language usage and sometimes hard to detect without a serious analysis of the journalistic text, not only on the surface (explicit),

but also the deeper (implicit) level. An important element of the journalistic text, which is analysed through the lens of hate speech, refers to the way in which the stakeholders are labelled and the way they are quoted (in direct and indirect quotes). It is also important to analyse the status and rank given to them in the text, and with what intent. Non-journalistic texts are either direct quotations that are chosen for quoting, or comments of internet users on journalistic articles in online media. Within the comments, as previous research has indicated, a special area of (in)tolerant speech is clearly visible in the signatures of commentators, especially in those that are metaphorical.

Hate speech in the media can be prevented by good and applicable legislation, active self-regulation of the media sector and responsible editorial policy. In Serbia, violated rules are punished by the active work of the Press Council; the Republic Broadcasting Agency; and the ethics committees, or “courts of honour”, of journalistic associations;<sup>9</sup> and by the public that holds the media accountable. In this study paper, we deal with the contextual frameworks that do or do not contribute to the spread of hate speech on the internet and only periodically analyse specific examples of discriminatory behaviour of journalists and internet users.

This paper is based on studies conducted in Serbia between 2009 and 2012 related to media freedom, media ethics, and the state of the media in the last three years. In 2011, there were two major field studies undertaken on the Serbian media sector. These studies are: *Serbian Media Freedom in the European mirror* (ANEM, NUNS, Local Press and IJAV) and *Profession at the Crossroads – Journalism at the threshold of the information society*, conducted by students and associates of the Faculty of Political Sciences in Belgrade.

In 2010, associates of the Department of Media Studies, Faculty of Philosophy in Novi Sad, under the leadership of Professor Dr. Dubravka Valic Nedeljkovic, in collaboration with students, performed a field survey of media freedom in Serbia for the OSCE mission in Serbia. Another source were the in-depth interviews that were conducted exclusively for this study paper by a media expert professor, Dr. Rade Veljanovski, who participated in the preparation of media laws from 2002 onwards and who at the time of writing this paper was a member of the commission for drafting two new fundamental laws, the Law on Public Information and Media and the Law on Electronic Media. Interviewees were: Vesna Dozet, a blog editor of B92; Kuntić Kalman, from the Secretariat of Culture and Media of the Provincial Executive Council and member of the Working Group of the Ministry for Culture Media and Information Systems for the drafting of new media laws; Sandra Simonovic, Editor-in-Chief and Founder of ETC Marketing and owner of the Snajderskaradionica Belgrade; and Goran Mirkovic, journalist and blogger.

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<sup>9</sup> There are currently four active associations in Serbia.

# Hate speech in online media in Turkey

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**Dr. Ceren Sözeri**, *Galatasaray University*

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## **Main findings of the Turkey country report on hate speech in online media**

**Internet penetration in the country:** 48%; 36,455,000 as of 2013

**Most read online media outlets:** hurriyet.com.tr (26.22%), sabah.com.tr (13.86%), haberturk.com.tr (13.46%), haberler.com (11.49 %) as of October 2013 ranked by IAB Turkey Internet Audience Top List

**Laws pertaining to hate speech in the country:** Turkish Penal Code: Article 122 prohibits discrimination between individuals because of their racial, lingual, religious, sexual, political, philosophical belief or opinion, or for being supporters of different sects. Article 216 bans the provocation of a group of people belonging to a different social class, religion, race, sect, or coming from another origin, to be rancorous or hostile against another group.

**Media specific provisions on hate speech** - Article 8, paragraph 3(b) of the recent Broadcasting Law (no. 6112) prohibits media services from inciting society to hatred and hostility by discriminating on the basis of race, language, religion, sex, class, region, religion and sect or from forming hatred within society. However, there is no specific regulation for hate speech in online media in Turkey.

**Code of ethics:** The 1998 Declaration of Rights and Responsibilities developed by the Journalists Association of Turkey (Türkiye Gazeteciler Cemiyeti) notes in paragraph 3 of the section on the Basic Responsibilities and Principles of the Journalist that journalists should avoid incitement to discrimination and hatred. There is a specific and detailed section on “Discrimination and Hate Speech” in the Ethics Code for Journalists in Turkey developed by the Media Association: “...when we ignore acts of hate, no one has the opportunity to react, to condemn them or to proclaim a different point of view...It is important for the media to help the public understand why this is hate speech and why it is being used in a story or a video clip. In other words, it is our responsibility to give it context.”

**Code of ethics - The provision related to user-generated content:** Many online news sites invite their readers to post their comments on the stories and some of them adopt a pre-moderated and post-moderated system. Recently, some online news sites have preferred to use Facebook pages for users' comments to reduce their liability.

**Name of the self-regulatory body supervising the code of ethics:** The Press Council (Basin Konseyi), which was established by a group of journalists in 1986, is also supported by media owners. However, it currently accounts for very few newspapers and only two online news outlets.

**Good examples of media outlets that have established and published terms and conditions:** Eight of the 10 news sites in this research project's sample request users to register with the site by giving accurate personal information and approving the site's terms of use agreements. Hürriyet daily mentions in its terms of use only restrictions based on racial and ethnic harassment. Radikal daily invites its users to be more understandable, clear and respectful of others in their comments.



## I. Media landscape and importance of online media

Until the 1980s, the news media sector in Turkey was led by a small group of journalists and journalist families. But after the third coup d'état in 1980, new investors replaced the family-owned media companies. These investors already operated in other sectors of the economy, and the move was a consequence of neo-liberal policies. In the 1990s, after the end of the state monopoly on broadcasting, a few conglomerates that had increased their economic power through vertical and horizontal mergers came to dominate entire sectors of the media. Some media groups with parent companies in the financial and banking sectors were affected by the country's 2001 financial crisis. Some of them were completely wiped out, while others were seized by the Savings Deposit Insurance Fund (*Tasarruf Mevduatı Sigorta Fonu*) established by the government. These transfers were significant in effecting changes in the mainstream media in accordance with the ideology of the ruling party, the Justice and Development Party, from 2002 on (Kurban and Sozeri, 2012:10).

These large media groups were also among the first investors in internet publishing and online journalism, starting by publishing their newspapers on the internet after 1996. Subsequently, online-only news outlets emerged (Çevikel, 2004). The internet penetration rate in country was about 48% in 2013, of which 75.6 % used the internet to access news. During and after the Gezi protests, Facebook users approached 90% of the number of internet users and the number of Twitter users increased by 31.10% (Alternatif Bilişim Derneği, 2013). Internet users received news about the events from social media since the traditional mainstream news channels preferred to broadcast documentaries about penguins, which became the symbol of the mainstream media due to the climate of self-censorship in Turkey.

However, mainstream media websites are still the most popular online news sources according to audience statistics (IAB Turkey Internet Audience Top List, January 2013). In the Turkey Interactive Advertising Bureau's bureau of top websites by number of real users, there were only three news outlets in August and September 2013. The biggest newspaper in Turkey, *Hürriyet*, had about 7 million real users and arrived ninth on the lists. The top positions are shared by Google, Facebook, YouTube, Live.com and Twitter.

In addition, almost all players in online news media have applied an advertising-based business model because the provision of free content online has made it difficult for newspaper publishers to make digital news content profitable (Tunç and Görgülü, 2012). In 2012, internet advertising revenues were USD 524 million and represented 18% of total revenues (IAB Europe

Adex Report 2012). Considering that, as in many other countries, the majority of this revenue goes to international giants such as Google, Facebook, Yahoo and MSN, the online news media are still far from really competing with television or newspapers when it comes to advertisement revenue.<sup>1</sup>

Similar to the traditional media, online media constantly struggle with political and legal pressures, in particular the Criminal Code and the Anti-Terrorism Law, which make it easy for the state to punish online journalists (Tunç and Görgülü, 2012: 42). This is compounded by the low level of union organizing among journalists.

Censorship and self-censorship are the most significant concerns about press freedom in Turkey, as documented in the European Commission's 2012 and 2013 Progress Reports on Turkey and the Committee to Protect Journalists' 2012 and 2013 reports on Turkey. As of 16 April 2013, a total of 28,916 websites were blocked. (Engelliweb.com, 2013). Among the blocked sites were news websites reporting on sensitive political issues, such as the Kurdish question, LGBT websites and websites on sexuality. It is an aggravating factor that the blocking process lacks transparency, as it is closed to citizen inspection (Kurban and Sözeri, 2013). In addition, criminal proceedings against website owners for comments left by readers have caused concern regarding the use of online media. Online media editors especially have faced criminal cases when these comments targeted public officials. A prominent case in this respect was the prosecution of Barış Yarkadaş, the editor of the online newspaper *Gerçek Gündem*, on the basis of Article 299, paragraph 2 of the Penal Code, concerning insults against the President of the Republic. Yarkadaş was on trial due to an anonymous user's comment following a complaint by the General Secretariat of the Presidency. Despite the fact that he was acquitted of the charges in 2010, new criminal proceedings were brought against him for the same article in March 2011 (Hammarberg, 2011, para. 67).

It should be added that the government's attempt to prepare new amendments to the Internet Law to increase state control of online journalism raised serious concerns regarding freedom of the press. The Alternative Informatics Association launched the "internet needs freedom, not press cards" campaign, criticizing the government's initiative as an attempt to censor and control the media (Alternatif Bilişim Derneği, 2011).

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<sup>1</sup> According to the Association of Advertising Agencies (Reklamcılar Derneği), the total media advertising revenue was about USD 2.6 billion in 2012. The biggest share (more than 50%) always goes to television because of the high television ratings and the cheap advertisement prices. Television is followed by print media (24%), in which newspapers get the lion's share. However, it seems that the internet is gradually taking more revenue from television and print media.

## II. Regulation of hate speech

### 1. The general legal framework

The only regulations that aim to deal with discrimination and hate speech in the society are in the Turkish Penal Code: Article 122 prevents discrimination between individuals because of their racial, lingual, religious, sexual, political, philosophical belief or opinion, or for being supporters of different sects, and Article 216 makes it a criminal offence to provoke a group of people belonging to different a social class, religion, race, sect, or coming from another origin, or to be rancorous or hostile against another group. However, the criminal cases on the grounds of hate speech and discrimination are widely criticized due to restrictive interpretation of regulations. Recently, world-famous pianist Fazıl Say was sentenced to 10 months in jail on the grounds of insulting Islamic values on Twitter based on Article 216(3), which punishes disrespect of religious belief with imprisonment from six months to one year if such acts are deemed to incur a potential risk for public peace. The sentence was suspended for five years, so the pianist will not be jailed if he does not repeat the offence within that period. Agnes Callamard, former Executive Director of ARTICLE 19 (ARTICLE 19, 2013) expressed concerns that Say's conviction would have a dangerous chilling effect on the society's free speech online. Previously, Prof. Dr. İbrahim Kaboğlu, the former head of the Human Rights Advisory Board of the Prime Ministry (BIHDK) and Prof. Dr. Baskın Oran, the head of the subcommittee of the same board, were on trial for four years on the grounds of "inciting hatred and hostility among people" in their Minority Rights and Cultural Rights Report (Önderoğlu, 2008). Amnesty International also criticized the use of Article 216 to prosecute criticism of dominant beliefs and power structures instead of preventing actual incitement to violence or discrimination against at-risk groups, in their recent report entitled "Turkey, Decriminalize Dissent: Time to Deliver on the Right to Freedom of Expression" (2013).

### 2. Media specific regulations

Article 8, paragraph 3(b) of the recent Broadcasting Law (No. 6112) prohibits media services from inciting hatred and hostility by discriminating on the basis of race, language, religion, sex, class, region, religion and sect or from forming hatred within society. However, there is no specific regulation for hate speech in online media in Turkey. The Internet

Law (No. 5651) regulates content providers, domain name providers, access providers and collective usage providers. Article 8 of the law deals with content regulation and authorizes the banning of access to websites where there are sufficient reasons for “suspicion” that the following crimes are encountered: encouraging suicide, sexual abuse of children, facilitating the use of drugs, delivering hazardous substances to health, obscenity, prostitution, arranging a place or facility for gambling, or that violate the Law on Crimes Committed Against Atatürk (No. 5816). The procedural regulation sets forth principles that publications on the internet must adhere to: in addition to respect for human dignity and fundamental rights, the protection of the physical, mental and moral development of youth and children, and respect for the peace and welfare of the family (Kurban and Sözeri 2012: 37).<sup>2</sup>

Access to websites’ can be blocked by a judge (at the investigation phase), a court (at the prosecution phase) or by the Telecommunications Communication Presidency (Telekomünikasyon İletişim Başkanlığı) in cases where the content provider is outside of Turkey or when the content concerns sexual abuse of children or obscenity (Kurban and Sözeri 2012: 37). In practice, the blocking of internet sites often results in the blocking of content that has nothing to do with child pornography or hate speech that incites violence (Hammarberg 2011a). In late 2012, the European Court of Human Rights (ECtHR) delivered an important judgment in the case of *Ahmet Yıldırım vs. Turkey* on the blocking of Google sites in Turkey, ruling that such blocking violated the right to freedom of expression, i.e. Article 10 of the European Convention on Human Rights. The ruling sent “a strong message that wholesale blocking of Internet services is arbitrary, overbroad, and violates freedom of expression online” (HRW, 2012). In addition to the violation of the applicant’s right to access his own Internet site, the ECtHR’s decision pointed out that in applying Article 8 of Internet Law no. 5651, the Turkish government “did not satisfy the foreseeability requirement under the Convention and did not afford the applicant the degree of protection to which he was entitled by the rule of law in a democratic society.”

In addition, the Information Technologies and Communication Board (BTK) decided to launch a countrywide mandatory filtering system in February 2011, which is based on forcing all home subscribers to choose one of four filtering profiles: the standard profile, the children’s profile, the family profile and the domestic internet profile. After some public protests and an application to the Council of State (Danıştay) for a postponement of the implementation, BTK reduced the number of packages to two

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<sup>2</sup> İnternet Ortamında Yapılan Yayınların Düzenlenmesine Dair Usul ve Esaslar Hakkında Yönetmelik [Regulation on the Procedures and Substance of the Regulation of Broadcasts on the Internet], Official Gazette, No. 26716, 30 November 2007, Art. 4(1).

(family package and child package) and made internet filters optional and applicable upon demand (BTK, 2011). However, the decision failed to put an end to the debates concerning internet censorship in Turkey; on the contrary, some point out that the authorities use deep packet inspection-based monitoring and blocking systems to block and censor web sites. Recently, the agreement of the largest telecommunication company, *Türk Telekom*, to implement Phorm technology in order to monitor the entirety of a user's internet communications has again raised concerns about possible violation of communication privacy and the right to privacy (Alternatif Bilişim Derneği, 2013).

On the other hand, although the packages are based on prohibiting the use of some words they deem to be inappropriate (such as the word 'gay'), the working methods and principles of the Working Council on Safe Internet Service for Children and Family, which was established on 22 November 2011, have not yet been disclosed to the public (Kurban and Sözeri 2013). As Binark (as cited in Çomu and Binark, 2012) pointed out, the system in fact aims to design "ideal/preferred family and child" access rather than to protect them from hate speech.

Although Turkey signed the Council of Europe's Convention on Cybercrime Treaty in 2010 promising a more libertarian Internet regime (Demirtaş, 2010), the treaty has still not been ratified. Furthermore, the Additional Protocol to the Convention on Cybercrime, which aims to combat "acts of a racist or xenophobic nature committed through computer networks", has not been signed (Binark, 2010: 17).

### 3. Media self-regulation framework

There are no collaborative efforts to increase the quality of content in off-line and online media because of the current ideological polarization and political division within and among various media and journalists' associations in Turkey. Tercan Ali Baştürk, the representative of *Medialog Platform*, lists the obstacles that prevent self-regulation mechanisms for online media as: financial constraints, online journalists' lack of journalistic rights, the fact that rules of establishment and working in online journalism are open to manipulation, and inadequacies in human resources.<sup>3</sup>

Media owners support the Press Council (Basın Konseyi), which was established by a group of journalists in 1986. However, it currently accounts for very few newspapers and does not enjoy significant respect in the media

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<sup>3</sup> Minutes of the workshop on the topic of "Online Hate Speech", Istanbul, 15 June 2013.

community (Zlatev, 2011: 36). Accordingly, there are only two online news outlets associated with the Press Council, and it is therefore not able to address ethical issues in online media.

The 1998 Declaration of Rights and Responsibilities developed by the Journalists Association of Turkey (Türkiye Gazeteciler Cemiyeti), which was agreed upon after a long consultation process with a wide range of journalists, NGOs and unions, is the most common reference on journalistic ethics. The Declaration notes that journalists should avoid incitement to discrimination and hatred, in paragraph 3 of the section on the Basic Responsibilities and Principles of a Journalist. Recently a group of journalists who left the Press Council established the Media Association (Medya Derneği) to support and raise the standards of the media. In 2011, the association announced a new code of ethics for journalists, which was developed during a three-day Media Ethics Workshop held in January of the same year. In that code, there is a specific and detailed section on “Discrimination and Hate Speech”. It notes that “...when we ignore acts of hate, no one has the opportunity to react, to condemn them or to proclaim a different point of view...It is important for the media to help the public understand why this is hate speech and why it is being used in a story or a video clip. In other words, it is our responsibility to give it context” (The Media Association, Ethics Code for Journalists in Turkey, 2011: 26). There are also small initiatives that monitor both online and off-line media, such as the Media Ethics Platform. However, such initiatives do not play any major role.

Currently, four Turkish newspapers (*Hürriyet*, *Cumhuriyet*, *Milliyet* and *Sabah*) have active ombudsmen who (self) monitor the compliance of their paper with codes of journalistic ethics. However, the website editions are exempt from the ombudsmen’s mandate (Kurban and Sözeri, 2012: 53). In 2013, the ombudsman’s page of the daily *Sabah* was suspended because of the critical views of the ombudsman, Yavuz Baydar, on the coverage of the Gezi protests. The chief editor of *Sabah* responded to Baydar’s criticism in readers’ comments, noting readers’ support for the paper’s editorial choices.<sup>4</sup> Then the former ombudsman was fired on the grounds of his criticism of media ownership issues in Turkey in an article he published in the *New York Times*.<sup>5</sup>

At the same time, there has been a growing awareness by civil society of the need for media monitoring. Various non-governmental organizations

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<sup>4</sup> The article is available at: <http://www.sabah.com.tr/Yazarlar/safak/2013/06/24/bir-okurun-gozyule>

<sup>5</sup> The article is available at: <http://www.nytimes.com/2013/07/21/opinion/sunday/in-turkey-media-bosses-are-undermining-democracy.html?ref=sunday&r=0>

and activist groups started media watch initiatives in order to expand the culture of diversity and to reduce discrimination, racism and hate speech. For example, MEDİZ<sup>6</sup> (the Women's Media Watch Group) has been monitoring sexism in the media since 2006. An LGBT association, KAOS GL<sup>7</sup> regularly looks for sexism and discrimination against LGBT individuals in the media and has published monthly reports for the past five years. After the assassination of the Armenian journalist and human rights defender Hrant Dink in 2007, hate crimes and hate speech in the media became a more pressing issue for civil society. The Association for Social Change (Sosyal Değişim Derneği)<sup>8</sup> prepared a report entitled *Hate Crimes in the National Press: 10 years, 10 examples* and recently launched a campaign for the adoption of Turkey's first law against hate speech. Similarly, the Hrant Dink Foundation<sup>9</sup> combats racism and discrimination based on ethnic and religious grounds through media monitoring and discloses them through tri-annual reports (Kurban and Sözeri, 2012: 60).

### III. Extent and nature of hate speech in online media

Hate speech in online media in Turkey has targeted ethnic origin, religion, political groups, LGBT individuals and women (Alternatif Bilişim Derneği, 2013). According to data from the Association for Social Change (Sosyal Değişim Derneği) (by analysing 5,000 examples in online archives of its sample between 1998 and 2008), the examples of hate speech targeted ethnic origin (46.98%), religion (20.92%), national identity (13.2%), ideological leaning (5.32%), social status (4.69%), sexual orientation (5%), sexual identity (2.87%), physical disability (0.7%), malicious envy (0.12%), and educational background (0.10 %) (*Hate Crimes in National Press: 10 years, 10 examples*, 2010: 29).

According to the Hrant Dink Foundation's *Media Watch on Hate Speech Periodical Reports*, Jews and Armenians were the most frequently targeted groups, followed by Christians and Greek living in Turkey, between

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<sup>6</sup> MEDİZ [Women's Media Watch Group], available at: <http://www.mediz.org/Kategori/13/1/English.aspx>, (date accessed 27 April 2013)

<sup>7</sup> KAOS GL [LGBT's News Portal], available at: <http://kaosgl.org/page.php?id=12057> (date accessed 27 April 2013)

<sup>8</sup> Sosyal Değişim Derneği [The Association for Social Change], available at: <http://www.sosyaldegisim.org/english/> and their campaign's website available at: <http://nefretme.net/page/english> (date accessed 27 April 2013)

<sup>9</sup> International Hrant Dink Foundation, Media watch on hate speech, available at: <http://nefretsoylemi.org/en/> (date accessed 27 April 2013)

September and December 2012, a trend similar to that observed in previous periodical reports since 2009. The targeted groups may change according to the political agenda, the report observes (nefretsoylemi.org, 2013). On the other hand, Kaos GL's monthly reports show that more radical Islamist publications in particular frequently use hate speech against LGBT individuals that is not related to the publications' political agenda. As might be expected, examples of hate speech are mostly found in nationalist and conservative media (Alternatif Bilişim Derneği, 2013). Even though online and offline mainstream media are more attentive to language, the context can sometimes be manipulative. LGBT individuals are, for instance, often covered with reference to their sexual identity even if there is no need to note this in the context of the story (Şahan and Şahan 2007), as for example the title "Transvestite freaked out while her house was burning" (Sabah, 2012).

Another stereotype that is seen in mainstream media is the distinction between good and bad members of minorities, where those seen as good are those well assimilated. For example, Hrant Dink, who was chief editor of the Armenian daily *Agos* and who was assassinated by a young nationalist in 2007, had never been the target of hate speech until he published an article in which he claimed that the adopted daughter of Turkey's founder could have been an Armenian survivor of the 1915 genocide (İnceoğlu and Sözeri, 2012). As Adaklı (2013) pointed out, the positive representation of Hrant Dink between 1998 and 2007 in one of the biggest newspapers, *Hürriyet*, as "a good Armenian who criticized the Armenian Diaspora" contributed to the "structural hate" against Armenians in Turkey.

On the other hand, hate speech online still stays out of the area of interest of media monitoring groups. Studies generally focus on hate speech in social media because there are many nationalist and conservative groups acting together using hate speech to intimidate ethnic, religious or sexual minorities in online spaces. Only the New Media Working Group and Alternative Information Technologies Association (Alternatif Bilişim Derneği) are watching hate speech on online media outlets and social media, and working to establish policies to create a more free, democratic and peaceful new media environment. They say new media has offered an ideal platform to adopt and spread hate speech because of its decentralized, anonymous and interactive structure (Uçkan, 2013).

Hate speech in online media recently increased during the Taksim Gezi Park protests against the government's urban development plan for Istanbul's Taksim Gezi Park. The nationalist, conservative online media targeted protesters with labels such as "Armenian, Jewish and traitors" (Alternatif Bilişim Derneği, 2013). As observed by Haluk Kalafat (2013), an editor at *Bianet*, journalists, who are in a position of creating commentary,



have far-reaching influence on social media users.<sup>10</sup> Hence, they tend to expand the extent of hate speech. For example, some aggressive statements by politicians, journalists and celebrities deepened the political polarisation and increased the level of hate speech during the Gezi protests (Alternatif Bilişim Derneği, 2013)

In addition to the content provided by news producers, hate speech is mainly diffused through readers/users' comments on stories. Only comments targeting state officials are prosecuted on the grounds of insult. For example, due to comments about the President of the country on the website of the daily newspaper *Vatan*, Dara Çolakoğlu was sentenced to 11 months and 20 days in prison on the grounds of insult (Dirini, 2010: 59). As mentioned above, the same year, another lawsuit was filed against Barış Yarkadaş, for "insulting the President of the Republic" and for refusing to withdraw from his newspaper's website a critical article posted by an internet user (Tunç and Görgülü, 2012:73). In the same year, Prime Minister Erdoğan warned online news editors about racism, discrimination and respect for religion in readers/users' comments, showing examples of comments against him and his family (Dirini, 2010: 59).

Many online news sites invite the readers to post comments on the stories, and almost all have adopted a system of moderation. However, as Dirini notes, the comments, including hate speech, increase when the story is about ethnic issues, and wording used in stories affects the comments' tone (Dirini, 2010: 72). She also observed that the selection of comments and filtering of comments that include hate speech could be affected by the political view of the moderator (Dirini, 2010: 70). Bülent Mumay (2013), *Hürriyet* web coordinator, said that his newspaper's website, like many other online news media outlets, uses moderation; however, the quality of moderators is crucial. Yet, hate speech examples can be seen even in *Hmoderat'*ü news site, sometimes because of staff shortage.<sup>11</sup>

## 1. Case Study: Hate speech in users' comments

**D**uring the research for this paper, we found that some comments were removed from stories and some were moved to the Facebook pages of the news outlets.<sup>12</sup> Recently, online news sites have preferred to use Facebook pages for users' comments to reduce their liability. As one editor-in-chief

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<sup>10</sup> Minutes of the workshop on the topic of "Online Hate Speech", Istanbul, 15 June 2013

<sup>11</sup> Minutes of the workshop on the topic of "Online Hate Speech", Istanbul, 15 June 2013

<sup>12</sup> Therefore, the cases that had been chosen for this research needed to be changed during the research process.

pointed out, Facebook allows for some uploaded comments to be viewed solely by the users themselves; thus any comments containing hate speech or insult are not widely shared with a wider audience and thus reduce the potential responsibility of the editors.<sup>13</sup>

As mentioned above, the wording used in stories affects the comments' tone and hate speech in users' comments. The story entitled "BDP supporters attacked the BDP's municipal building" [BDP'liler BDP'li belediye binasına saldırdı] is a relevant example of editors allowing provocative language in comments. According to the story, some BDP (Freedom and Democracy Party) supporters attacked BDP's municipal building to protest against the mayoral candidate for the next local elections in İdil, a small county in the Eastern part of Turkey.<sup>14</sup> In the photograph used in the story, a person wearing a black mask throws a gasoline bomb into flames. The caption reads, "Even if Turkey breaks down, 'the activity' of BDP supporters remains unchanged. They attacked their own municipality" [Türkiye yıkılsa da Kürtler'in aktivitesi değişmez. Kendi Belediyelerine Molotofla saldırdılar]. This can also be seen as an example of marginalisation in news stories, as Kurdish people are described as "they", as if they were not part of the Turkish population.

The story received 149 comments, and it should be mentioned that a few comments criticized the editors for their wording and their characterization of Kurds as terrorists. However, the aggressive tone of the editors also provoked some users to use hate speech against the Kurdish people, for example:<sup>15</sup>

- *"bunlar maymundan donusmeye calisan son evresine ulaşmamış insanlar"* (tuncer) ["they are people who tried to transform from apes but have failed to complete the evolution to reach the final phase"]
- *"hep polise değil birazda birbirlerine atsinlar. umarım zayıat çoktur"* (maraşlı) ["They should shoot at each other instead of at the police!! I hope that there will be serious fatalities"]
- *"vatan hainleri teroristler"* (Beter Olsunlar) ["Traitors terrorists"]
- *"BASKA AKTİVİTENİZ Mİ VAR İŞİNİZ GÜCÜNÜZ YAKIP YIKMAK VATAN HAINLERİ"* (TEK TÜRK) ["You have nothing else to do but ravage and destroy, traitors"]

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<sup>13</sup> The editor-in-chief of T24, Doğan Akın, explained his preference for users' comments to be posted on Facebook, Istanbul, 18 November 2013.

<sup>14</sup> "BDP'liler BDP'li belediye binasına saldırdı" [BDP supporters attacked the BDP's municipal building]. The story is available at: <http://www.ensonhaber.com/bdpliler-bdp-binasina-saldirdi-2013-12-27.html> (accessed on 2 January 2014).

<sup>15</sup> The comments are available at: <http://www.ensonhaber.com/bdpliler-bdp-binasina-saldirdi-2013-12-27-yorumlari/1> (accessed on 2 January 2014)

Another example can be found in a story published on the online news media site Internethaber.com on 19 February 2013,<sup>16</sup> about the accusations of a member of the Freedom and Democracy Party blaming another political party for organizing protests against them during a visit to Sinop, a city in the Black Sea region. The story generated 79 comments from readers.

Most of the comments attacked the deputies of the BDP because of their visit to the region as part of the peace process between the state and the PKK. The deputies of BDP are often called “marauders” and “traitors”. Moreover some comments contained threats to the BDP chief deputy himself. Some of these comments came very close to hate speech, as can be seen in the examples below that were delete by the moderators a few months after the events.

- “Kürtçülerle kardeşliğinin hesabını vereceksin elbette” [“You will pay for your comradeship with the pro-Kurdish”]
- “ola sizden birını rizede göreyim...olacaklara siz bile şaşıracaksınız yeminler olsun” [“I dare ever to see one of you in Rize... I swear that even you will be surprised by what will happen”]
- “ben karadenizliyim vatan hainlerinin bölgemizde cirit atmasına izin vermeyiz” [“I am from the Black Sea region, we do not allow the traitors to circulate in our region”]
- “Allahın belası o eşkiyalara destek olurken nasıl böyle konuşabiliyorsunuz , siz ölün ya geberin türkiye sizsiz kalsın rahat nefes alsın yapacağınız en büyük iyilik bu olur inanın...” [“How can you talk like this while supporting these damned bandits, you should die, by being rid of you, it will be best thing you can ever do for Turkey...”]

The comments targeted not only BDP members or Kurdish people but also Armenians and atheists: “sen Trabzon Meydan dayağını tatmadın sanırım..TÜRKİYE TÜRKLERİNDİR. TÜRKLERLE Kürtler de kardeştir buna karşı çıkanlar ise ermeni ve Dinsizdir” [“I am of the opinion that you are not yet familiar with the traditional public beating, you do not yet know the big beating of Trabzon ... TURKEY BELONGS TO TURKS. TURKS and Kurds are siblings (brothers and sisters), and whoever objects to this is either Armenian or Atheist].

There is direct reaction from nationalist and racist readers in these examples, and it seems that these comments were allowed to be published

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<sup>16</sup> ‘Sinop’daki çapulcular MHP’li değil CHP’li!’ [The marauders in Sinop are not from MHP, but from CHP], Internethaber, 19 February 2013. The story is available at: <http://www.internethaber.com/sinopdaki-capulcular-mhpli-degil-chpli-505614h.htm> (accessed 28 April 2013).

without any intervention by the moderator. These two cases indicate that some online news organizations do not take the appropriate precautions to prevent hate speech in their online content. Furthermore, these comments could be published and distributed without being a subject of any legal prosecution on the grounds of discrimination or hate speech.

## 2. Case study: hate speech in news content

Homo/bisexuality and transsexuality are seen as sexual perversion by extreme conservative media in Turkey. In its report for the period from May to September 2013, the Hrant Dink Foundation observed that 22 of 103 hate speech examples in the press targeted LGBT individuals, and that 12 of them were published in two national conservative newspapers: *Milli Gazete* and *Yeni Akit*. *Habervaktim* has been known as the online branch of *Yeni Akit*, although they deny ties with each other. However, the same news coverage is frequently observed in both of them. In 2008, a lawsuit against *Vakit*<sup>17</sup> on the grounds of insulting gay people was considered an achievement in terms of LGBT rights. Kaos GL filed a lawsuit against *Yeni Akit* and columnist Serdar Arseven, who wrote an article titled “Üskül prefers perverts,” regarding the JDP member and the head of Turkish Parliamentary Human Rights Commission Zafer Üskül, who attended the International Anti-Homophobia Meeting organized by Kaos GL. Turkey’s High Court of Appeals has ordered *Yeni Akit*, which has now changed its name to *Vakit*, to pay compensation, saying “The freedom of the press does not encompass the freedom to insult the personal freedoms of individuals” (Littauer, 2012).

For this research, two examples were analysed to show how hate speech was produced and diffused by some conservative and nationalist media in Turkey. *Habervaktim* often becomes a part of the hate speech debate through its coverage. The first example was entitled “A disgusting plan in eastern and south-eastern Anatolia” and was written by Hasan Tosun and published on 7 October 2011.<sup>18</sup> It was about the Henrich-Böll Foundation, which provided hosting of some editions of the LGBT magazine *Hevjin* and published *Hevjin*’s advertising on its website, in addition to supporting the International Meeting Against Homophobia and working together with LGBT organizations like Kaos GL and the LGBT Solidarity Association. The language, including in the headlines, refer to the “perversion” of homosexuality in Turkey and the Henrich-Böll Foundation’s hidden agenda.

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<sup>17</sup> The newspapers exist in a continuum of the same kind of newspaper having different names: *Vakit*, *Akit*, *Anadolu’da Vakit*, etc.

<sup>18</sup> The story is available at: <http://www.habervaktim.com/haber/204488/dogu-ve-guumlneydoguda-igrenccedil-plan.html>

Recently, another story, written by Furkan Altınok, targeted both the legal Kurdish Party, BDP (Freedom and Democracy Party) and LGBT individuals within the same title: BDP'den 'Ahlaksızlık Terörü'ne De Destek ["Support from BDP also for terror of immorality"].<sup>19</sup> The article is about a declaration by Kaos GL against viewing homosexuality as an immoral act and a valid reason for dismissal from the army under Turkish military regulations.<sup>20</sup> Despite the fact that two political parties, BDP and CHP (The Republican People's Party) supported Kaos GL, the editors only targeted BDP due to their ethnic representation. It is understood that using the word "also" in the title refers to BDP's endorsement of the PKK (Kurdistan Workers' Party), which is considered as promoting terrorism by the government.

Articles frequently use "perversion" to refer to homosexuality, and members of the LGBT community are called "sexual perverts". The above-mentioned story received eight comments similarly blaming homosexuals, some demanding divine punishment for them and another saying that whoever would vote for the two parties mentioned in the articles was also a "pervert".

#### IV. Measures taken by media to address online hate speech

For this research, 10 online news media websites<sup>21</sup> were analysed in terms of their user contract or terms of use pages in April 2013, with an update of the analysis completed in January 2014. In April 2013, only four news sites requested users to register with the site by giving accurate personal information and approving their terms of use agreements by clicking on a button to indicate consent. However, the registration requirements had increased by January 2014.

The general restrictions are related to the use of defamatory, obscene, threatening, harassing, pornographic, or abusive language and illegal utterance. Hate speech is not mentioned, but one, *Hürriyet* daily, mentions restrictions on racial and ethnic harassment in its terms of use. Only *Radikal* invites its users to be more understandable, clear and respectful to others and to maintain a polite tone in their comments. It seems that these agreements

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<sup>19</sup> BDP'den 'Ahlaksızlık Terörü'ne De Destek ["Support from BDP also for terror of immorality"]. The story is available at: <http://www.habervaktim.com/haber/311155/bdpden-ahlaksizlik-terorune-de-destek.html> (accessed on 28 April 2013).

<sup>20</sup> Turkish Armed Forces Discipline Law (no.6413)

<sup>21</sup> We analysed *Hürriyet* (Hurpass.com), Haberturk.com, NTVMSNBC.com, Radikal.com.tr, Internethaber.com, Milliyet.com.tr, Sabah.com.tr, Ensonhaber.com, Gazetevatan.com, and haber7.com.

are aimed primarily at reducing media organizations' liability and protecting their copyright and the rights of their affiliates rather than trying to seriously prevent hate speech. Two news sites accepted comments without registration for some pages, such as stories about football. For the remaining two, there were no restrictions to the content that could be posted in comments.

## Recommendations

As Boyle (2010:67) remarks, "in a democratic society everyone condemns hate speech. The difference between countries is over the means of dealing with it." In the final declaration of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban (the Durban Declaration), States were encouraged to combat racism, racial discrimination, xenophobia, justification of racial hatred and discrimination in any form; to avoid stereotyping in all its forms; and to implement legal sanctions in accordance with relevant international human rights law, in respect of incitement to racial hatred through new information and communication technologies (Durban Declaration, 2001 Article 144-147). As mentioned above, there is not any defined crime related to hate speech in Article 8 of the Internet Law (no.5651). Moreover, among the thousands of "access bans" implemented by BTK (Engelliweb, 2013), none of them were banned on the grounds of hate speech content. Beside, as Binark and Çomu (2012) pointed out, even the government's implementation of Safe Internet Filtering for families and children does not aim to protect them from hate speech.

It should be emphasized that it is not possible to combat hate speech through legal means alone. In accordance with legal provisions, media organizations should adopt more effective editorial standards to reduce hate speech in their news and user-generated content. Research (Engindeniz, 2008) shows that readers want to make their voices heard and use their comments to participate in the political life of Turkey. As Baydar (2010: 138) emphasized, conscious readers/users should be more active and raise their voices against discrimination and hate speech in media. Therefore, it is necessary to raise users' awareness about hate speech popularised and circulated on the internet and to use new media to produce peaceful discourse and establish peaceful organizations (Çomu and Binark, 2012).

From this standpoint and on the basis of the research findings, this paper puts forward some recommendations for the government, online media stakeholders and NGO's on how to combat hate speech in online media:

### **The government should:**

- Ratify the Convention on Cybercrime and sign its Additional Protocol to take action against “Racism and Xenophobia in Cyberspace”;
- Improve regulations for fight against hate speech, enhancing the participation of academics and advocacy groups;
- Implement an effective content regulation system to protect youth and children against hate speech that incites violence;
- Ensure that regulation on hate speech does not produce negative effects on freedom of expression and press freedom.

### **Media organizations should:**

- Enhance their moderation systems, collaborating with their readers through an open and transparent complaints system;
- Define and disclose their editorial standards on hate speech that bind themselves and their readers. Accordingly, they should immediately develop and adopt common ethical principles to improve quality of content;
- Work together with NGOs that monitor media content and produce policies on hate speech for the media. New media editors can receive training from these NGOs to adopt standards and to eliminate discriminatory expressions/statements from their news language;
- Improve international collaboration to increase awareness between journalists about hate speech through training programmes.

### **NGOs should:**

- Monitor online and social media in terms of hate speech against minorities;
- Develop new tools for online and social media, for instance based on key words, that allow for better monitoring of hate speech;
- Raise awareness about online hate speech and promote media and information literacy through training and campaigns;
- Support people who have become the target of hate speech;
- Seek international collaboration to develop tools to enhance the active participation of civil society in the fight against hate speech;
- Encourage readers/users to be more active and raise their voices against discrimination and hate speech in the media.

Finally all online media stakeholders, readers and NGOs should encourage the government to ensure a free and peaceful internet environment. As Çomu and Binark (2012) have pointed out, it is critical to understand the reasons/ root causes and conditions of hate speech on new media based on political, cultural and social factors.

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## **Addressing online hate speech in South East Europe: The role of media accountability**

### ***Conclusions and follow-up of the Regional Conference on Hate Speech Online, Sarajevo, 17 October 2013***

**T**he Sarajevo conference organized on 17 October 2013 in the framework of EU- UNESCO Project “Media accountability in South East Europe”, having examined the professional, legal and political conditions in which media in the region work, confirmed that one of the greatest challenges facing media and public policymakers is the growth of intolerance in online communications. Very often this is hate speech and incitement to violence or hatred against minorities based particularly on differences related to ethnicity, religion, politics, and sexual orientation.

Although the liberating impact of an open information landscape has strengthened democracy and free speech and has created unprecedented opportunities for greater transparency and accountability across all areas of public life, the impact on journalism is mixed.

There are signs of progress in the quality and capacity of traditional journalism in some countries of region, but at the same time media in all countries report a serious challenge from the expansion of online communications where there is little if any self-regulation to minimize the threat of hate speech.

In particular, the conference noted that access to traditional media and the freedom to comment on the work of journalists provides opportunities for intolerant and extremist expression and when these comments are published without moderation by media professionals, they can undermine professional and ethical standards.

The way media are able to deal with these problems is made complex by internal and external challenges.

Inside media there is fierce competition; precarious working conditions; and limited financial resources, all of which conspire to weaken the capacity for adequate supervision of published material. The rush to publish in a competitive media market and notions of immediacy have further undermined standards of fact-checking and verification of information in journalism both online and on traditional platforms.

Externally, political pressures, the undue influence of special interest groups and the use of law to constrain media and journalism remain in place in some countries. This also leads to forms of self-censorship.

The changing nature of journalism and the participation of the audience in gathering and dissemination of information work adds to the pressure on ethical journalism. A lack of adequate editing and moderation of submitted material creates a stark contrast between journalistic work and public comments.

The following suggestions arise from the conference discussions and point to areas where public policy could be directed towards assisting journalists and media in ensuring quality and reliability of their published works.

In particular, these points aim to raise awareness both within media and among the public at large about the dangers in hateful communications and the need for responsibility in the use of information in an online environment.

### **Political and Public Responsibility for Online Hate Speech**

- Political leaders and political parties at all levels must recognize that intemperate, intolerant language in political discourse is a major reason for the widespread dissemination of hateful information found in traditional and online media that incites violence and division in society. Political groups should impose internal controls to limit and counter political speech that is intolerant. Public officials who promote hatred between communities should be held to account.
- Similarly, people in the leadership of groups representing specific religious, cultural or language communities or other groups identified by cultural or language groups should oppose and act against all forms of communication which are designed to promote hostility or to target other communities.
- In communities that remain polarized because of political or cultural differences it is important that media and journalism do not compromise the cardinal principle of editorial independence. All media, whether public or private, should strive to respect the core principles of ethical journalism.

### **Public Information Policy to Combat Online Hatred**

- Investment in media and information literacy is essential. Public investment should be provided to support programmes for raising awareness at all levels of society, through the educational system and media, to encourage public responsibility in the use of information.
- Such investment should also encourage media to engage with the audience in raising-awareness on the dangers of intolerant and

hateful speech particularly in the online environment. However, such public money should not at any time be used to compromise the editorial independence of journalism.

- At the same time there should be increased investment in training on this issue for journalists both inside media houses and across the different platforms of media.
- Media self-regulation bodies are also important instruments for engagement with the audience and should be used to support and implement such campaigns.

### **Use of Law and the Challenge of Definition of Hate Speech**

- Governments should reinforce free speech rights and avoid imposing legal controls that limit journalism or online speech in the name of combatting hate speech except in circumstances where there is real and imminent threat to public life.
- Laws pertaining to hate speech should be harmonized and clearly defined so that no one is penalized for the dissemination of hate speech unless it is been shown that they published information with the intention of inciting discrimination, hostility or violence.

### **Journalism and Media Ethics**

- The right of journalists to work freely and to decide how best to communicate information and ideas to the public should be respected, particularly when they are reporting on racism and intolerance.
- National journalistic codes of ethics should be adapted to the digitalized media landscape.
- All types of online journalistic media (websites of traditional media, news portals, blogs, etc) should be invited to sign up the code of ethics. Fresh dialogues with the online media community and traditional media should be encouraged to reach agreement on a common approach where this is possible.

### **Self-regulation and online speech**

- In all countries media should work together to try to agree on common standards and a common approach in dealing with hate speech, particularly where it concerns the moderation and management of user-generated content and online comments on journalistic work. This should involve reaching agreement on editorial guidelines and acceptable codes.

- Codes should be followed up with media self-regulatory bodies that ensure their implementation. These mechanisms should be tailored to meet the needs of a converged media environment with particular attention to online communications.
- Media self-regulatory bodies should be voluntarily established, ideally at a national level, and should be free of undue political influence. Such bodies should be supervised and managed by media professional groups and where appropriate in co-operation with public representatives.
- Where the establishment of a self-regulatory body is not possible, each media house should be encouraged to establish and publish the terms and conditions which they apply in accepting and publishing online comments. A clear demarcation must be kept on online media between forums for the public and editorial content.
- The media should always monitor their websites and try to prevent the publication of content that violates human dignity. The public must be given opportunity to report to editorial offices about inappropriate content.

