Addressing
hate speech
in the media:
the role of regulatory
authorities and
the judiciary

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CONFERENCE

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Hate speech in the media
Overview of national approaches

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Content

- Understanding hate speech
- Legal framework
- Regulation
- Developments
- Opportunities
- Good practices

Understanding hate speech

- Inappropriate / offensive vs. hate speech?
- No universal definition
- No standardization of legislations
- Relatively modest / volatile case law
- Question of regulatory resources / training
- Lack of targeted research

Legal framework

- International human rights law

- EU: AVMSD
  - Audiovisual media services
  - Video sharing platforms

- National law
  - AVMS: general ban, no definition
  - Penal law – criminality threshold:
    - Abstract danger: e.g. France, Italy, Lithuania, Romania
    - Clear and present danger: e.g. Slovenia, Cyprus, Portugal, Spain, Bulgaria

Regulation

- Limited to AVMS / radio / rarely online services
- Other media: self-regulation
- Basic provision transposed from AVMSD
- No definition of hate speech
- Discretion of regulatory authorities
- In some countries:
  - further elaboration in bylaws, or
  - guidance in non-statutory acts

Regulation

- Advantages
  - Continuous attention (monitoring)
  - Possibility of graduated approach (not criminalization)
  - Positive policies (dialogue, training, good practices)
- Disadvantages
  - Arbitrariness
  - Weak enforcement

Practice

- Albania: 1 case, sanction: fine (€3000)
- Belgium Fr: 3 cases; sanctions: 2 publication of a statement, 1 fine (€1000)
- Bosnia and Herzegovina: 10 cases; sanctions: fines from €450 - €500 - €1000 - €3000 - €10000 - €15000; 1 license suspension for 90 days
- Croatia: 8 cases; sanctions: 1 temporary suspension of concession + submission of the case to the State Attorney's Office; 7 warnings
- France: 4 cases; sanctions: 3 notice, 1 fine (€25000)

Practice

- Macedonia: 6 cases; sanctions: no fines, so just warnings and publication of monitoring findings + submission to other competent authorities / public prosecutor office

- Montenegro: 6 cases; sanctions: warnings with recommendations; 2 fines (€2500); 3 publications of notification on the imposed sanction

- Kosovo: 2 cases; sanctions: warnings

- Romania: 7 cases; sanctions: 2 fines, 3 fines and publication of a statement, 1 publication of a statement

Developments

- Responsibility of intermediaries
  - AVMSD: video sharing platforms, including social media (i.e. absence of editorial responsibility)
  - CM/Rec(2018) on the roles and responsibilities of internet intermediaries: human-rights based

- Prevention of forum shopping

- The role of ERGA (advice to EC, including on hate speech)

- Union codes of conduct (universal standards?)

Opportunities

- Context / case to case –clarity / guidance
- Role of regulators:
  - monitoring, assessment, filtering of cases
  - forwarding to prosecutors / courts
  - positive measures
- Self- / Co-regulation
- Collaboration (internal, external)
- Quality media / trust
- Public awareness, media literacy
- Pluralism, diversity, culture of tolerance
- Research (disaggregated data; causes)

LAW/POLICY MAKER	NRA	MEDIA
Good practices – regulatory framework		
Creating conditions for effective implementation of the regulatory framework	Effective implementation of the regulatory framework	
Safeguarding the independence of the NRA	Developing a culture of independence	
Rules based on plurality of players and diversity of content	Developing the awareness of the public about the role of the NRA	
Allowing and favouring the creation of community media	Supporting the creation of community media	
Imposing specific obligations regarding political pluralism, especially in election period	Effective system for monitoring and compliance of the obligations of AVMS providers	
Encouraging in the formal education of journalists the management of speech containing hate, discriminations or stereotypes	Having a diligent and transparent system of complaints handling	
Encouraging media and digital literacy	Initiating and supporting public awareness campaigns	

LAW/POLICY MAKER	NRA	MEDIA
Good practices – media governance		
Promoting self-regulation	Promoting self-regulation	Developing effective self-regulatory schemes and actively participating in them
Encouraging the adoption of codes of conducts	Encouraging the adoption of codes of conduct	Adopting codes of conduct
Encouraging training on diversity issues and promoting culture of tolerance	Encouraging training on diversity issues and promoting culture of tolerance	Providing to its newsroom (and other staff) trainings on diversity issues and other activities in support of culture of tolerance
Encouraging the development by the media of effective mechanisms of complaints handling	Encouraging the development by the media of effective mechanisms of complaints handling	Developing effective mechanisms of complaints handling
		Collaboration and sharing best practices within regional and other international media networks

LAW/POLICY MAKER	NRA	MEDIA
Good practices – public service media		
Promoting editorial policy and a programming based on social inclusion, social cohesion, diversity and culture of tolerance	Promoting and monitoring the obligations regarding social inclusion, social cohesion, diversity and culture of tolerance	Integration of principles of social inclusion, social cohesion, diversity and a culture of tolerance in editorial policy and programming Devoting airtime to programmes based on these principles and promoting them
Creating rules supporting diversity in appointments of Supervisory Board and management members	Ensuring or promoting diversity in composition of governing structures of PSM (depending on the NRA mandate)	Creating and implementing policies safeguarding diversity in management and editing structures

LAW/POLICY MAKER	NRA	MEDIA
Good practices – production of audiovisual content		
Promoting ethical journalism and tolerance in journalism	Promoting ethical journalism and tolerance in journalism	Continuing education of the newsroom on ethical journalism and tolerance in journalism
Encouraging continuing education on the management of speech containing hate, discriminations or stereotypes	Encouraging continuing education on the management of speech containing hate, discriminations or stereotypes	Providing to its newsroom continuing education on the management of speech containing hate, discriminations or stereotypes
Imposing obligations on on-screen representation of the diversity of the society	Promoting and monitoring the on-screen representation of the diversity of society	Integrating the dimension of representation of the diversity within the production processes
Imposing obligations in terms of political pluralism and of promotion of a democratic culture	Promoting and monitoring the obligations in terms of political pluralism and of promotion of a democratic culture	Adopting internal rules / guidance regarding the coverage of election campaigns and making them publicly available
	Adopting a charter on coverage of election campaigns in partnership with the media and political actors	Implementing good practices in coverage of election campaigns
	Offering trainings regarding the coverage of election campaigns	Participation in trainings on coverage of election campaigns

Thanks!

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