

CODES, PRESS COUNCILS AND DISCRIMINATION IN EUROPE

**Report made by Alliance of Independent Press Council in Europe
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Introduction

Non-statutory press and media councils have become increasingly prevalent throughout all parts of the world¹. They are established in order to hold media outlets to account in a way that maintains the media's freedom from government.

Within the Council of Europe area, there are at least twenty-five functioning press or media councils². Many of those are members (albeit that membership is informal and non-binding) of the Alliance of Independent Press Councils of Europe (AIPCE), which is a loose network of independent content regulators for both press and broadcast media. Its annual conferences provide a forum for media and press council representatives to discuss topical issues, to exchange ideas and to offer and receive advice. It was established at a conference in London in 1999³.

Press councils generally have two primary functions. The first is the administration of an agreed Code of Practice and the investigation of complaints from members of the public about editorial content in the media. The second is the defence of press freedom. Some Press Councils fulfil explicitly only the first function – but in doing so must balance the rights of the individual and the rights of the press to freedom of expression.

Press councils represent a form of corporate responsibility which allow people to complain for free and without legal representation, and can help generate trust in the quality of news.

Press councils and discrimination

Many press councils are primarily concerned with the business of complaints-handling, usually on the basis of cases raised by members of the public. Most initiate investigations of their own volition (some more regularly than others) and make statements from time to time on matters of general interest or importance.

¹ In fact, some press councils, such as those in Ireland, Denmark and Luxembourg are established by (or confirmed in) legislation. However, they essentially work independently of government and are included in this survey.

² It is difficult to be absolutely certain about the precise number of functioning councils. Those that are members of AIPCE keep in close touch with one another but several organisations do not participate in AIPCE activities. The list of non-statutory press councils set out in Appendix 1 is correct to the best of my knowledge but it is quite possible that several states (in which efforts to establish media self-regulation have been made in recent times) not included there do now have councils too.

³ For more information about AIPCE please visit www.aipce.net.

The majority of complaints received and dealt with by all press councils relate in some way either to questions of accuracy or privacy.

Discrimination is an issue which all press councils have an interest in but it is one which tends to occupy a relatively small amount of their time. Nonetheless, it is a crucial area of press regulation and this report will seek to set out the position taken by various councils (specifically those that are members of AIPCE) on the subject.

Codes of Practice

As noted in the introduction, press councils work by administering Codes of Practice, usually ones that have been drawn up by the media industry and which media outlets have agreed to abide by.

Just like the Councils that administer them, Codes reflect national or regional concerns and interests. This is as it should be, otherwise regulatory regimes will not be relevant or credible. It is important to remember that cultural norms and expectations play a key role in the development of press councils.

Even so, it is clear that there are certain points of commonality both in the way councils work and in the Codes they oversee. In relation to the area of discrimination, an examination of the Codes⁴ appears to be immediately informative simply in the sense that some go into considerably more detail than others. However, this is not necessarily because a particular press council regards the issue as more important than another. It is the tendency of some Codes to attempt to deal with a large number of possible eventualities. Others set out core principles and it is the rulings of the council itself which subsequently deal with specific situations as they arise (and which act as precedents for the future).

It is important to bear this caveat in mind when looking only at Codes. It would be necessary to undertake further research into rulings over a lengthy period to understand how the various Codes have actually been interpreted.

Nevertheless, it is quite possible to make a reasonable comparison of the basic principles which the Codes embody⁵. There are two questions in particular that should be examined. First, do the Codes offer protection to groups of people against media discrimination or just individuals? Second, what precise characteristics do the Codes protect?

Protecting the individual or the group

The answer to the first question is relatively straightforward. Out of the twenty Codes examined, four (those overseen by the press councils of Cyprus, Ireland, Kosovo and the Netherlands) contain specific provision for the protection of groups. The other sixteen would protect only identified individuals from being personally discriminated against.

⁴ For the purposes of this report, twenty press councils and their Codes were surveyed. They were chosen on the basis of their recent and ongoing participation in the activities and conferences of the Alliance of Independent Press Councils of Europe. The relevant parts of each Code (i.e. those sections relating specifically to discrimination) are included in Appendix 2).

⁵ A table of the Codes' basic characteristics is set out in Appendix 3.

There are, perhaps, two primary reasons why the majority of Codes concern themselves with the individual, rather than the group:

1. From a practical point of view, it will necessarily be difficult to determine whether all members of a given group believe themselves to have been discriminated against.
2. Protection of groups has the potential to impact too severely on the right of the media to freely express opinions, especially – but not solely – with regard to religion.

Of course, all Codes without exception contain requirements on accuracy and/or taking care not to publish misleading and distorted information. This is crucial because much of what is regarded as discrimination is, in fact, simply inaccurate reporting. The UK Press Complaints Commission, for example, has sought to encourage complaints on this basis that would inevitably fail if they were brought forward solely on the grounds of discrimination.

What is being protected?

Most Codes specify the areas of a person's life which should be protected from discrimination. The one point of commonality is religious belief, which is perhaps unsurprising. What is more surprising is that this is one of only two issues which all Codes seek to protect. The other is race and/or ethnicity, which is variously described but the practical impact is likely to be identical.

Other characteristics and areas covered by a proportion of Codes in the survey are as follows:

- Gender – 15
- Nationality – 15
- Sexuality – 10
- Disability – 9
- Membership of organisations (e.g. political parties) – 9

Of course, what is not clear at this stage is why these differences exist. Is it because in certain cultures particular issues are considered to be unworthy of protection or, rather, because discrimination does not occur and so formal protection has not become necessary?

Do Codes work in practice?

In order to gain a further insight into the way in which Codes and press councils are used by those who believe they may have suffered discrimination from the media, a number of questions were put to press council representatives⁶. The questions asked were as follows:

1. In 2008, how many complaints did the Press Council receive about alleged discrimination against minorities?

⁶ Representatives of all twenty press councils in this survey were contacted by email. 15 responses were received.

2. How many of those complaints had merit (and what was the outcome of the complaints)?
3. In your view, is there a particular problem with outright discrimination against particular minorities (based on religion, race, colour, gender, sexuality, mental disability etc) in the media in your country?
4. In your opinion, does more need to be done to deal with problems of media discrimination?

The responses to the first two questions, which are of a statistical nature, are collated in Appendix 4. They demonstrate that there are remarkably few complaints to most press councils about alleged discrimination (even taking account of the fact that many councils deal with a relatively small number of complaints overall).

Only three councils dealt with more than half a dozen cases (those in Germany, Ireland and the UK). The figures in the UK were certainly skewed by multiple complaints about two particular articles, the second of which was a critical piece about cyclists that excited considerable anger in the cycling community. Claims that the article discriminated against them on the basis of their preferred mode of transport were, of course, rejected.

There was a similar situation in the Republic of Ireland, where one piece in particular resulted in complaints from a large number of individuals. It can be seen that the number of cases which had merit (or possible merit in instances where a complaint is settled through mediation) remain small even in jurisdictions where the number of cases brought to the press council are fairly high.

So, what do these statistics show? Would it, for example, be fair to conclude that discrimination in the media is more prevalent in those countries where complaint numbers are higher? That is certainly a considerable leap. It might be counter-argued that a high number of complaints shows greater awareness of possible discrimination, lower tolerance to apparent discrimination or higher levels of media literacy (or simply greater awareness of the press council). There would be more work to do before firm judgments could be made.

The answers to questions 3 and 4 were based on the subjective opinions of the respondents and are not reproduced verbatim in this survey⁷. However, it is fair to say that the majority view was that mainstream media generally understood its responsibilities towards minorities in respect of protecting them against discrimination. Only in Russia was the problem considered to be significantly widespread in the mainstream.

Some respondents (including those from Finland, Estonia, Armenia and the UK) raised concerns about non-mainstream websites and user-generated content (including on some mainstream sites), where discrimination is fairly common-place.

Around a third of respondents argued that, whether or not complaint numbers were high, there was always more that could be done to combat discrimination. Education, both in the wider sense and more narrowly in terms of journalistic training, was considered to be the most useful route to improvement.

⁷ The Danish press council did not answer questions 3 and 4 for procedural reasons.

Conclusions

This survey is intended as a starting point for discussion and perhaps for further research. Nonetheless, the results of even a basic comparison of Codes and complaint numbers are of some interest, especially in determining the degree of commonality between the numerous press councils that exist in Europe.

Of course, it is legitimate to question the extent to which all press councils are effective and credible. At the most basic level, there are considerable differences between the reach of their individual jurisdictions: since most are voluntary, individual media outlets cannot be compelled to work within the regulatory regime. Again, however, that is a question that would require further investigation.

Some things are clear, however:

1. Press and media councils across the continent recognise the importance of protecting against discrimination. All the Codes surveyed contain at least some reference to this area of journalistic ethics.
2. Protection against religious and racial discrimination is commonplace. Other aspects of a person's life are also protected from discrimination but not with the same degree of uniformity.
3. Press councils (which responded to this survey) receive relatively few complaints about alleged discrimination. Most of those received are without merit.

Appendix 1

Countries in the Council of Europe area with a functioning press council (or equivalent):

Armenia
Azerbaijan
Belgium (Flanders)
Bosnia and Herzegovina
Bulgaria
Cyprus
Denmark
Estonia
Finland
Germany
Iceland
Ireland
Italy
Luxembourg
Malta
Montenegro
Netherlands
Norway
Russian Federation
Slovakia
Spain
Sweden
Switzerland
Ukraine
United Kingdom

Appendix 2

European Press Councils and their Codes of Practice (Discrimination):

Armenia

The Code of Ethics adopted in the course of initiative to promote media self-regulation in Armenia stipulates in the section **4. Respect for Privacy and Other Human Rights** that:

4.2. In case of a conflict between the freedom of expression and other fundamental human rights, the medium itself decides what to give preference to and carries responsibility for its decision...

And in the section **5. Respect for Representatives of Different Groups and for Universal Values** that:

5.1. To avoid prejudice against people on the ground of their race, sex, age, religion, nationality, geographic origin, sexual orientation, physical handicap, external look or social status;

5.2. Not to promote in any way ethnic or religious hatred and intolerance, or any discrimination on political, social, sexual, and language grounds...

Azerbaijan

3.1 Journalist must not condemn people for nationality, race, sex, language, profession, religion, and place of birth and exalt the kind of information.

Belgium (Flanders)

4. RESPECT FOR THE DIVERSITY OF OPINIONS

The press recognizes and respects the diversity of opinions. It defends the freedom to publish different points of views. It opposes all discrimination based on sex, race, nationality, language, religion, ideology, culture, class or conviction, provided that the convictions thus professed are not in contradiction to the respect of fundamental human rights.

Bosnia & Herzegovina

Article 3 Incitement

The press shall at all times be aware of the danger that arises when media, deliberately or by inadvertence, encourages discrimination and intolerance. Mindful of this danger, the press shall do its utmost not to incite or inflame hatred or inequality on grounds of ethnicity, nationality, race, religion, gender or sexual orientation or any physical or mental illness or disability. The press shall under no circumstances incite criminal acts or violence.

Article 4 Discrimination

Newspapers and periodicals must avoid prejudicial or insulting references to a person's ethnic group, nationality, race, religion, gender or sexual orientation or to any physical or mental illness or disability.

References to a person's ethnic group, nationality, race, religion, gender, sexual orientation or physical or mental illness or disability shall be made only when directly relevant to the event being reported.

Article 4a Gender Equality and Respect of Individuality

Newspapers and magazines shall avoid direct or indirect comments that might cause inferior treatment of individuals or discrimination based on sex, gender, sex identity, gender identity, gender expression and sexual orientation.

Bulgaria

2.5 Discrimination

2.5.1. We respect everyone's right to live in safety and security, and we shall avoid publishing material that incites or encourages hatred, violence or any form of discrimination

2.5.2. We shall not refer to a person's race, colour, religion, ethnic background, sexual orientation, mental or physical condition, unless it is of importance to the meaning of the story.

2.6 Crime and brutality

2.6.5.1 We shall be careful not to be used as a platform by those who promote, incite or use violence; we shall report on their activities with due constraint and only if there is a clear public interest.

Cyprus

General

Journalists, in commenting on the work of their colleagues do so with due respect to their honour and reputation and refrain from personal attacks and references belittling the personality.

Journalists in carrying out their function:

Respect and promote democracy and other universal values. They respect and promote human rights and the fundamental freedoms of all.

3. PRIVATE LIFE

"... The Media and journalists do not make personal attacks and do not use insulting and abusive words which injure the honour and reputation of individuals".

12. DISCRIMINATION

The Media avoid any direct or other reference or action against a person which contains elements of prejudice on the basis of race, colour, language, religion, political or other conviction, national or social origin, property, extraction, gender, age, or other personal status, including physical or mental illness or invalidity. Scorn, ridicule and abuse of individuals and groups are not permissible.

Denmark

B. CONDUCT CONTRARY TO GOOD PRESS PRACTICE

1. Information which may violate the sanctity of private life shall be avoided unless an obvious interest requires press coverage. The individual man is entitled to protection of his personal reputation.

C. COURT REPORTING

4. The mention of persons' family history, occupation, race, nationality, creed, or membership of organisations should be avoided unless this has something directly to do with the case.

Estonia

4. Editorial guidelines

4.3. It is not recommended to emphasise nationality, race, religious or political persuasion and gender, unless it has news value.

Finland

Private and public

26. The human dignity of every individual must be respected. The ethnic origin, nationality, sex, sexual orientation, convictions or other similar personal characteristics may not be presented in an inappropriate or disparaging manner.

Germany

10. Publication in words and photographs which could seriously offend the moral or religious feelings of a group of persons, in form or content, are irreconcilable with the responsibility of the Press.

12. No-one may be discriminated against due to their membership of a racial, ethnic, religious, social or national group.

Guideline 12.1 - Reports on Crimes

When reporting crimes, it is not permissible to refer to the suspect's religious, ethnic or other minority membership unless this information can be justified as being relevant to the readers' understanding of the incident. In particular, it must be borne in mind that such references could stir up prejudices against minorities.

Ireland

Principle 8 – Prejudice

Newspapers and periodicals shall not publish material intended or likely to cause grave offence or stir up hatred against an individual or group on the basis of their race, religion, nationality, colour, ethnic origin, membership of the travelling community, gender, sexual orientation, marital status, disability, illness, or age.

Kosovo

General provisions

2. The press in Kosovo shall observe international standards of civility and respect for the ethnic, cultural and religious diversity.
3. Journalists and editors shall not, deliberately or by inadvertence, encourage discrimination and intolerance.

Incitement and hate speech

1. The press shall under no circumstances incite criminal acts or violence.
2. The press shall do its utmost not to incite or inflame hatred or encourage discrimination by engaging in the following:
 - treat with contempt an individual or a group on the basis of ethnicity, religion, sex, race, colour, marital status, age or handicap;
 - employ derogatory terms likely to hurt and intimidate an individual or a group on the basis of ethnicity, religion, sex, race, colour, marital status, age or handicap.
3. References to a person's ethnic group, race, religion, gender, sexual orientation or physical or mental disability shall be made only when directly relevant to the event being reported.

Luxemburg

1. From the right to information and freedom of speech, such as they are guaranteed by the Constitution and affirmed in the Declaration of Human Rights, derive the responsibility of journalists and publishers.

That responsibility implies:

c) the prohibition of plagiarism, of offensive speech, insult, libel, slander and of racial, ethnic, religious and ideological discrimination;

Netherlands**1. General**

1.6. A journalist reports on the ethnic origins, nationality, race, religion and sexual nature of groups and persons only if this is required for the context of the news item reported on.

Norway**4. Publication Rules**

4.3. Always respect a person's character and identity, privacy, race, nationality and belief. Never draw attention to personal or private aspects if they are irrelevant.

Russia

5. A journalist understands fully the danger of limitations, persecutions and violence, which his activities may provoke. In fulfilling his professional duties he counteracts extremism and restriction of civil rights on any basis including sex, race, language, religion, political or other views as well as social or ethnic origin. A journalist respects the honour and dignity of the people who become the objects of his professional attention. He refrains from any derogatory allusions or comments in relation to race, nationality, colour of the skin, religion, social origin or sex as well as in relation to the physical handicap or disease of the person. He refrains from publications of that kind of information with the exception of cases having a direct relation to the content of the published article. A journalist is unconditionally obliged to avoid offensive expressions which may harm the moral and physical health of the people.

Sweden**Respect individual privacy**

10. Do not emphasize race, sex, nationality, occupation, political affiliation or religious persuasion in the case of the persons concerned if such particulars are not important in the context AND are disparaging.

Switzerland

8) In respecting human dignity, the journalist must avoid any allusion by text, image or sound to a person's ethnic or national origin, religion, gender, sexual orientation as well as to any illness or physical or mental handicap that could be discriminatory in character. The reporting of war, acts of terrorism, accidents and catastrophes by means of text, image and sound should respect the victims' suffering and the feelings of their loved ones.

United Kingdom

12. Discrimination

- i) The press must avoid prejudicial or pejorative reference to an individual's race, colour, religion, gender, sexual orientation or to any physical or mental illness or disability.
- ii) Details of an individual's race, colour, religion, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to the story.

Ukraine

15. No one can be discriminated against by reason of gender, language, race, religion or ethnic, social origin or because of political preferences. Information could be pointed out only if it is a necessary part of the story.

Appendix 3
Code characteristics

| | Specific rule on discrimination | Protection of groups | Race | Religion | Sexuality | Gender | Disability | Nationality | Ethnic group |
|---------------------------|--|-----------------------------|-------------|-----------------|-----------------------------------|---------------|-------------------|--------------------|---------------------|
| Armenia | Yes | No | No | Yes | No | Yes | No | Yes | Yes |
| Azerbaijan | Yes | No | Yes | Yes | No | Yes | No | Yes | Yes |
| Belgium (Flanders) | Yes | No | Yes | Yes | No | Yes | No | Yes | Yes |
| BiH | Yes | No | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Bulgaria | Yes | No | Yes | Yes | Yes | No | Yes | No | Yes |
| Cyprus* | Yes | Yes | Yes | Yes | Personal status - effectively yes | Yes | Yes | Yes | Yes |
| Denmark* | No (only re court reporting) | No | Yes | Yes | No* | No* | No* | Yes | No* |
| Estonia | Yes | No | Yes | Yes | No | Yes | No | Yes | Yes |
| Finland | Yes | No | No | Yes | Yes | Yes | No | Yes | Yes |
| Germany | Yes | No | Yes | Yes | No | Yes | Yes | Yes | Yes |
| Ireland | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Kosovo | Yes | Yes | Yes | Yes | Marital status | Yes | Yes | No | Yes |
| Luxembourg | Yes | Not specified | Yes | Yes | No | No | No | No | Yes |
| Netherlands* | Yes | Yes | Yes | Yes | Yes | No* | No* | Yes | Yes |
| Norway | Yes | No | Yes | Yes | No | No | No | Yes | No |
| Russia | Yes | No | Yes | Yes | No | Yes | Yes | Yes | Yes |
| Sweden* | Yes | No | No* | Yes | Yes | Yes | No* | Yes | Yes |
| Switzerland | Yes | No | No | Yes | Yes | Yes | Yes | Yes | Yes |
| UK | Yes | No | Yes | Yes | Yes | Yes | Yes | No | No |
| Ukraine | Yes | No | Yes | Yes | No | Yes | No | No | Yes |

*Note - some councils (at least those marked with an asterisk) may offer protection to minorities under the privacy sections of their Codes