



39th EPRA meeting
Budva, 4-6 June



Plenary Session 2
Hate Speech – Old Enemy, New Battles

Introduction, Objectives and Structure of the session

1. Introduction

The topic of Hate Speech has featured prominently twice on the agenda of an EPRA meeting, with a working group in 2004 (Istanbul) and a plenary session in 2005 (Sarajevo). The session in Sarajevo was based on the results of a survey carried out by the French CSA among EPRA members, which aimed at establishing a typology of cases¹, notably dealing with incitation to hatred on grounds of nationality, ethnicity and religion. The topic of incitation to hatred originating from non-European third countries was a particular focus at the time with the *Al Manar* and *Sahar 1* cases.

The EPRA Annual Work Programme 2014², which was adopted by the Board in February, introduces a yearly plenary session on "*Tackling discriminatory and hateful content in a convergent media environment*". The yearly session will bring together two related content issues that of hate speech and diversity and representation in the media, both currently raising new challenges in the convergent media environment.

While the Budva session will look at hate speech issues, best practices on how to achieve balance with freedom of speech and will focus on the degree of involvement and responsibility of broadcasting regulatory authorities, the session on 10 October 2014 in Tbilisi will explore how predominant manners of representations of age, social class, ethnicity, gender, sexuality and disability in the media are treated by national regulators.

Nine years after the session in Sarajevo, a questionnaire aimed at gathering information on recent cases of hate speech from service providers under the jurisdiction of EPRA members or emanating from another country has been circulated to the EPRA network. The outcome of the survey is presented in the background document EPRA/2014/06b compiled by by Asja Rokša - Zubčević, from the CRA (BA). 19 out of 36 respondents reported on concrete cases of hate speech the past two years. There were cases of gender discrimination, Islamist-fundamentalist matters, anti-Semitic and xenophobic language, derogatory language against immigrants, language targeting LGBT population, Roma, etc.

¹ <http://www.epra.org/attachments/sarajevo-plenary-2-incitation-to-hatred-presentation-fr>

² http://epra3-production.s3.amazonaws.com/attachments/files/2321/original/ANNUAL_WORK_%20PROGRAMME_2014_EN.pdf

2. Structure of the Plenary Session

The Plenary Session, which will be chaired by EPRA Vice-Chairwoman *Helena Mandić*, will open with a keynote address by *Dr. Tarlach McGonagle* from the Institute for Information Law of the University of Amsterdam, IViR (NL) during which he will replace the issue of hate speech in its legal context, unravelling the concept, analysing the case law of the ECHR and also examining the regulatory challenges posed by hate speech in an increasingly fluid media environment.

Dr. Tarlach McGonagle specialises in a broad range of topics relating to international and European human rights law, especially the rights to freedom of expression and religion; minority rights; participatory rights, and cultural and linguistic rights. His other main area of expertise is international, European and comparative media law and policy. Themes such as pluralism, diversity, tolerance and “hate speech” have a central place in his research.

He regularly writes expert reports for various branches of the Council of Europe, OSCE and other IGOs and NGOs. He is a member and Rapporteur of the Council of Europe's [Committee of experts on protection of journalism and safety of journalists \(MSI-JO\)](#). He was an invited expert speaker at the Thematic Discussion on “Racist Hate Speech” organised by the [United Nations Committee on the Elimination of Racial Discrimination in 2012](#).

He recently produced an expert paper for the Council of Europe Conference of Ministers on “Freedom of Expression and Democracy in the Digital Age, Opportunities, Rights and Responsibilities” which took place in Belgrade on 7 - 8 November 2013³. The document, which is entitled “*The Council of Europe against online hate speech: Conundrums and challenges*”, will also serve as a non-EPRA reference document for the session in Budva.

Tarlach is also the author of a recent free-to-download E-Book of the European Audiovisual Observatory: *Freedom of Expression, the Media and Journalists* which provides a summary and a legal analysis of more than two hundred decisions of the European Court of Human Rights regarding freedom of expression and media freedom⁴.

The keynote address will be followed by the presentation and discussion of concrete cases by EPRA members.

- ***Maria Stoyanova***, Member of the Council for Electronic Media - CEM (BG) will show a video example illustrating the tensions between freedom of political expression and the permissibility of hate speech in Bulgaria.
- ***Nerijus Maliukevičius***, Director of the Radio and Television Commission of Lithuanian - RTCL (LT), will report on recent decisions of the RTCL on cases of alleged hate speech, some of them revolving around the coverage of recent events in Ukraine by Russian speaking channels.
- ***Trevor Barnes***, Head of Harm, Offence and Fairness at Ofcom (UK), will report on Ofcom's recent cases.

³ <http://www.coe.int/t/dghl/standardsetting/media/Belgrade2013/>

⁴ <http://www.obs.coe.int/documents/205595/2667238/IRIS+Themes+III+%28final+9+December+2013%29.pdf/2e748bd5-7108-4ea7-baa6-59332f885418>

3. Questions for debate

The following indicative set of questions may be addressed during the debate between the panellists and the audience.

- How to achieve the balance between freedom of speech and make sure that audiences are adequately protected?
- What are the constitutive elements of hate speech? How to identify which criteria allow us to distinguish between harms that justify restrictions and those that do not?
- How important is the geopolitical context?
- How to address the specific challenges raised by the propagation of hate speech due to the global nature of the internet, the development of social media and the proliferation of user generated content?
- What are the respective roles and responsibility of the broadcasting regulator, the prosecution/judicial bodies of Member States and the wider society?