

European Platform of Regulatory Authorities (EPRA)

May 2009

THE MEDIA, COMBATING DISCRIMINATION AND PROMOTING DIVERSITY

Answers by the European audiovisual regulation authorities¹

- 1 - Under your legislation on audiovisual regulation, are any particular powers transferred to your authorities in the field of combating discrimination and promoting diversity? If so, what are the nature and the extent of these powers? If your authority has powers vested in it by the relevant legislation, please state whether they fall into the following categories:**

General Comments

Cyprus - relevant articles and regulations of the Radio and television law and regulations of 1998 - (Please note that all quotes from the Radio and Television Stations Law as well as the Regulations made there-under are a free translation from Greek to English.) Article 30 of the RADIO AND TELEVISION STATIONS LAW OF 1998 "Stations have an obligation to ensure that their broadcasts shall not include any incitement to hatred due to differences in race, gender, religion or citizenship." Relevant REGULATIONS OF THE RADIO AND TELEVISION STATIONS LAWS UNDER SECTION 51 21(3) - Stations shall be obliged to ensure, in all broadcasts (including advertisement) respect for the personality, honor, reputation, privacy, the professional, scientific, social, artistic, political or other related activity of every person, whose name appears on the screen or whose name is broadcast by a station or reference is made to, or particulars are broadcast about, him which lead to recognition of his identity. The above obligation extends to every person or in general the image of man as an individual or member of a group. 25. (3) (a) The following rules concern the language which shall be used in broadcasts: There shall be forbidden - To use the language in a manner which may offend against the sensitivities of religious, racial, political or other social groups... Content of entertainment broadcasts - 26.(m) In entertainment broadcasts there shall be forbidden - the broadcast of programs insulting to the dignity of the two genders, racial, national, religious, groups or individuals with special needs. As you can understand there are no further particular powers transferred to the Cyprus Radio-television Authority other than the above stated.

Czech Republic - Act on Czech Television: (2) The main tasks of public service in the television broadcasting area include, without being limited to: a) provision of objective, verified and generally balanced and comprehensive information as may be needed for opinions to be freely formed, b) contributing to legal awareness among the citizens of the Czech Republic, c) creating and disseminating programmes and providing a well-balanced offer of programme units for all groups of population with respect to the freedom of their faith and

¹ Answers sent during the consultation made by EPRA to its members in the framework of the Council of Europe's *Speak Out Against Discrimination* Campaign. It does not represent an official report neither for EPRA or for Council of Europe

conviction, culture, ethnic or national origin, national identity, social origin, age or gender so that the programme units reflect the diversity of opinions and political, religious and philosophical orientations and artistic trends, with a view to promoting mutual understanding and tolerance and supporting coherence of the plurality society, and d) developing the cultural identity among the citizens of the Czech Republic

France - L'article 3-1 de la loi du 30 septembre 1986 relative à la liberté de communication confie au Conseil supérieur de l'audiovisuel la mission, d'une part, de contribuer aux actions en faveur de la cohésion sociale et à la lutte contre les discriminations dans le domaine de la communication audiovisuelle et, d'autre part, de veiller, notamment auprès des éditeurs de communication audiovisuelle, compte tenu de la nature de leurs programmes, à ce que la programmation reflète la diversité de la société française. La loi du 5 mars 2009 relative à la communication audiovisuelle et au nouveau service public de la télévision a renforcé le rôle du Conseil en matière de représentation de la diversité de la société française et souligné les attentes du législateur en la matière à l'égard des éditeurs, en particulier de France Télévisions. Le Conseil doit désormais rendre compte chaque année au Parlement des actions des éditeurs de services de télévision en matière de programmation reflétant la diversité de la société française et proposer les mesures adaptées pour améliorer l'effectivité de cette diversité dans tous les genres de programmes.

Germany - The logic of the German media regulations doesn't fit exactly in the scheme of your questionnaire. The German audiovisual regulatory authorities supervise the requirements which have to be met by private broadcasters/ service providers. According to the German Federal Constitutional Law, General Law (e. g. the Interstate Broadcasting Treaty (Rundfunkstaatsvertrag)), etc. the requirements imply especially the programme guidelines/ programme quotas, the protection of minors and the advertising rules. So § 42 para. 1 Interstate Broadcasting Treaty ensures at least a minimum of diversity: all German and also foreign programmes have to be orientated at specific common-shared values like the dignity of mankind and global peaceful co-existence. These programme requirements are formally regarded as strict legal obligations. However in practice they serve mainly as orientation points for debates on media quality. Beyond that the Länder have equality laws of which the access to media, namely access to information media and television, is part of. Broadcasters should take initiatives to implement such technologies and programmes. In addition to that in Germany there are no further particular powers transferred to our authorities in the field of combating discrimination and promoting diversity (Questionnaire 1.1. to 1.5.). But in scope of civil law and employment law there is the General Equal Treatment Act (Gleichbehandlungsgesetz) to prevent or eliminate discrimination on the basis of race or on the ground of ethnic origin, sex, religion or belief, disability, age or sexual identity. The supervision of this legislation does not fall under the responsibilities of audiovisual regulatory authorities (Questionnaire 2.1. to 2.5). Under the following URLs Germany's different media laws are available in English language. Please note that some of the laws are revised in the meantime, but the old versions might be helpful for you though: <http://www.alm.de/366.html> and <http://www.alm.de/365.html>. The current laws in German language can be found via: <http://www.alm.de/50.html>

Norway - does not have a specific legislation beyond the Act on Broadcasting, but is currently working on implementing the AVMS-directive from EU, and is planning to finish this implementing work in December 2009. Because of the situation in Norway on this field right now, we will make a summary of question 2 from the questionnaire. The Norwegian Media

Authority has work in areas as the Act on Broadcasting. The Norwegian Act on Broadcasting is promoting diversity within local radio, local television and public service broadcasting. Every terrestrial broadcaster need to have a license, and the Media Authority gives the licenses to the radio- / TV- station on terms that promote most diversity to the media landscape in Norway. The terms are also based on the Act on electronic communication. Every year the Media Authority monitors the commitments the public broadcasters are obliged to fulfil through their license terms. The Norwegian Media Authority also regulates press subsidies that provide diversity in the paper press and the freedom of opinion and expression in the Norwegian society. The press subsidies constitutes MNOK 300 every year, divided in subsidies for papers for the minority population, papers in competition in a municipality, and papers with low circulation of copies. The Gender Equality Act and the Anti-Discrimination Act is managed by the Ministry of Children and Equality, which includes work in fields as gender, race and sexual harassment.

Romania - Yes, according to Audiovisual Law no 504/2002, with all subsequent modifications, National Audiovisual Council (NAC) are authorised to issue decisions on non-discrimination policies regarding race, sex, nationality, religion, political convictions and sexual orientation (art. 17, par.1,d), 7).

Serbia - The RBA as the regulatory body in charge of electronic media in Serbia has no competences in the area of promotion of diversity in employment nor does it supervise the access to professions in the media industry. The RBA ensures that broadcasters' programmes do not contain information promoting discrimination, hatred or violence against a person or group of persons due to their political affiliation or belonging or not belonging to a race, religion, nation, ethnic group, gender or due to sexual orientation. Any broadcasters' offence in terms of inciting intolerance, hatred or violence presents grounds for the pronouncement of prescribed measures by the Agency. These measures are internal warning, public warning, temporary withdrawal of programme broadcasting license and permanent license withdrawal. If the injured party believes that he/she has suffered damage due to discrimination, he/she may refer to the court for the purpose of obtaining compensation for the damage both within criminal and civil proceedings. If the injured party believes that he/she has been discriminated against by government authorities, he/she may refer to the ombudsman. Publicly owned broadcasters have a legal obligation to produce and broadcast programmes intended for all segments of the society, without discrimination, paying special attention to specific social groups such as children and the youth, minority and ethnic groups, persons with disability, vulnerable groups in terms of their material and health situation, persons with visual and hearing impairment, etc. The RBA is competent for supervising the compliance with this obligation.

Spain / Catalonia - Article 80 of the Catalonia Broadcasting Act establishes the basic principles of regulation of broadcasting content. Within the legitimate exercise of the fundamental rights of freedom of expression and information, broadcasting activities are subject, among others, to the following limits:

- a) Respect for dignity, as an essential feature of human personality.
- b) Non-incitation of hate on the basis of race, sex, religion or nationality.
- c) Respect for the right of all people not to be discriminated against on the basis of birth, race, sex, religion, nationality or any other personal or social condition or circumstance.
- d) Respect for the human rights recognized by the Spanish Constitution, in particular the fundamental rights to honour, privacy and one's own image.

(...)”.

According to article 115 of the Catalonia Broadcasting Act, in addition to the functions assigned to by Law 2/2000, of 4 May, the Catalan Broadcasting Council shall have, among others, the following functions:

- a) To strive to ensure respect for rights and freedoms in the sphere of broadcasting.
- b) To strive to ensure respect for political, religious, social, linguistic and cultural pluralism, and also to ensure the appropriate regional balance throughout the broadcasting system in Catalonia.

In complying with its functions, the Catalan Broadcasting Council may exercise the following powers (art. 116):

- a) Adoption of preventive measures in cases of emergency to ensure that a failure to comply with obligations does not lead to grave and irreparable damage to pluralism, freedom of communication or citizen’s rights. These measures may include provisional suspension of a licence to provide broadcasting services.
- b) Demanding information and a report from broadcasting service providers and distributors.
- c) Ordering cessation of activities which infringe the licence conditions.
- d) Establishing agreements with the providers with a view to bringing about cessation of activities which may be in breach of the law or the licence conditions, according to the Council’s criteria. These agreements shall not be binding for the broadcasting authority if the situation with regard to an essential element of the decision changes, if the provider fails to fulfill commitments or if the agreement has been founded on incomplete, inexact or misleading information.
- e) To impose penalties designed to ensure compliance on the part of providers with obligations towards the broadcasting authority, especially with regard to duties deriving from exercise of the powers established by this article and the power to inspect and control.

The Netherlands - To sum up: in the Netherlands there are no specific stipulations in audiovisual media legislation to fight discrimination. Of course there are other general legal instruments, amongst which the most important: article 1 of the Dutch Constitution (Grondwet) and the General Law on Equal Treatment (Algemene Wet Gelijke Behandeling). See for more information: Wikipedia about anti discrimination legislation in the Netherlands (be aware this is a non official translation by Google in English). Regarding plurality however the Dutch media legislation contains several stipulations. In the remit of national PSB, laid down in article 2.1 of the Dutch Media Act is stated that public media services should cater for the democratic, social and cultural needs of Dutch society by providing a media offer which is balanced, plural, varied and of high quality. Dutch national PSB is comprised of different broadcasting organizations. One of them, the Dutch Program Foundation has been attributed the specific legal task to provide a media offer aimed on ethnical and cultural minorities. In addition to that the Dutch PSB comprises several small broadcasting organizations that represent a certain religion or spiritual movement in our country. All together they are part of the national Public Service Broadcasting system and have been attributed some broadcasting time on TV and radio. They belong to national PSB because their presence is deemed to be essential in order to represent the main religions and spiritual movements in Dutch society. Their programmes should express the philosophical insights of the groups they represent. The Commissariaat will only grant airtime once in 5 years when such an organisation is representative for a main movement of religion in the Netherlands. All main religions and spiritual movements present in the Netherlands are at the moment broadcasting on national radio and TV: Protestant, Roman Catholic, Humanist, Jewish, Islam, Hindu and Buddhist. They may only broadcast religious or spiritual programs. This is not defined in concrete terms; it can be more than for instance a church service. As long as there is a clear connection with the specific religion or spiritual movement, regardless the

program format, it could qualify as a religious or spiritual program. At the moment we have 9 religious/spiritual broadcasters: IKON (Protestant), ZVK (Protestant), RKK (Catholic), Humanistische Omroep (Humanism), NMO (Islam), NIO (Islam), OHM (Hindu), Joodse Omroep (Jewish) and BOS (Buddhism). The programmes of the Muslim and Hindu broadcasters are of particular interest to the large population of immigrants in the Netherlands who adhere to the same religions. All organizations have been granted broadcasting time (TV and radio) by our authority, the CvdM, following section 39f of the Media Act. Now the legal provision is section 2.42 Media Act. On local level worth mentioning is that several years ago public service broadcasters in the four biggest cities of our country have launched a joint radio station aimed at immigrant youngsters and adolescents in the big cities, called *FunX*. The programmes are in the Dutch language, made by and aimed at multicultural youngsters: urban and multicultural pop music combined with information. Besides that the channel must fulfil an educational and cultural stage function. The local broadcasters offer under the umbrella of G4 Radio one joint programme format with local windows on peak hours. For all 4 cities there is a local edition/window for peak hours. Extra frequencies and money (half Ministry, half local governments) have been reserved for this initiative. Also Mira Media's main goal is to achieve more diversity and 'ethnic' pluralism by supporting the participation of immigrants in radio, television and the interactive media. Mira Media has no broadcasting time but closely co-operates with Dutch national and local (public and commercial) broadcasters. Also it is worth to address the work of Mira Media in the Netherlands. Mira Media is an independent co-operative body founded in 1986 by the major national migrant organisations in the Netherlands focussing on media and minorities and funded by public money. For more information about its activities, please visit the English section of its [website](#).

Slovak Republic - The Slovakian Council for broadcasting and retransmission is entitled by the law to monitor whether the programme service and all of its parts propagate violence and in a hidden or open form instigate hatred on the basis of gender, race, colour of skin, language, faith and religion, political or other thinking, national or social origin, membership in a national or ethnic group. And is also entitled by the law to monitor whether broadcast advertising and teleshopping include any kind of discrimination on the grounds of sex, race, colour, language, national or social origin or nationality or membership of an ethnic group. If the Council finds some violation of these duties it is entitled to impose the sanctions to the relevant broadcaster. The available sanctions are – warning, fines, the termination of the broadcasted programme. The Council for broadcasting and retransmission does not have any other powers in the field of combating discrimination and promoting diversity. Therefore the answer to your question in part 1 is no.

Sweden - The framework for radio and television activity is set out in the The Fundamental Law on Freedom of Expression and its dependent legislation. The Swedish Radio and Television Act contains regulations regarding the broadcasting of sound radio programmes and television programmes that are directed to the general public, and designed to be received using technical devices. According to The Fundamental Law on Freedom of Expression every Swedish citizen is guaranteed the right under this Fundamental Law, vis-à-vis the public institutions, publicly to express his thoughts, opinions and sentiments, and in general to communicate information on any subject whatsoever on sound radio, television and certain like transmissions, films, video recordings, sound recordings and other technical recordings. The purpose of freedom of expression under this Fundamental Law is to secure the free exchange of opinion, free and comprehensive information, and freedom of artistic creation. A legal publisher is the person legally responsible for any breaches of the law on freedom of

expression (e.g. persecution on grounds of race, skin colour, national or ethnic origin, religious belief or sexual orientation; defamation and criminal libel) that may be committed during broadcasts. A license to broadcast TV programmes or sound radio programmes, other than community radio and local commercial radio, may be granted under the condition of the obligations that are defined in the Swedish Radio and Television Act, Chapter 3 Section 8. A license condition may stipulate that the broadcaster shall take into account the powerful impact of radio and television when making decisions about the content in broadcasts and the type and time of the programmes' broadcast. As for now all broadcasters in the digital terrestrial television network have such conditions in their broadcasting permits. The licensing condition concerning the powerful impact of the media applies not only to graphic descriptions of violence or sexual content but also content that is discriminatory or derogatory on grounds of race, skin colour, national or ethnic origin, religious belief or sexual orientation. The Swedish Broadcasting Commission (SBC) oversees the compliance with the licensing conditions in all relevant broadcasts in Sweden. It should be said that relatively few such cases concerning discrimination have been noted by the SBC, and so far the only case where a breach of these rules is noted in a case from 2002 where a text-TV page with viewer generated text-messages contained blatantly racist statements. When a breach of rules is noted by the SBC the broadcasting company must announce the decision in an appropriate manner. The announcement is usually made in an obligatory broadcast in which the SBC's decision is presented. In The rules and tools available to the SBC are thus not aimed at promoting diversity, but combating discrimination.

Switzerland – OFCOM (NB - *L'Office fédéral de la communication (OFCOM) traite de questions liées aux télécommunications et à la radiodiffusion (radio et télévision). Dans ces domaines, l'OFCOM s'occupe de toutes les tâches de régulation et d'autorité nationale. Par ailleurs, l'office prépare les décisions du gouvernement suisse (Conseil fédéral), du Département fédéral de l'environnement, des transports, de l'énergie et de la communication (DETEC) et de la Commission de la communication (ComCom). L'OFCOM développe aussi une importante activité à l'étranger*). Basically we do not have any rules - apart from those concerning the content of radio and television programmes - that would empower us to combat discrimination or even to promote diversity. The Federal Act on Radio and Television (RTVA) provides in its article 4 par. 1 the following: "*All radio or television programmes must respect fundamental rights. In particular, programmes must respect human dignity, must be neither discriminatory nor contribute to racial hatred, nor endanger public morals nor glorify or trivialize violence*". Besides that, the self-regulating body "Schweizerischer Presserat" also provides rules against the discriminatory portrayal of people in its guidelines (see: <http://www.presserat.ch/16310.htm>).

Switzerland – AIEP – (NB - *Autorité indépendante d'examen des plaints en matière de radio-télévision (AIEP) - L'AIEP est chargée de traiter : 1/ les plaintes concernant le contenu d'émissions rédactionnelles et 2/ des plaintes liées au refus d'accorder l'accès à un programme (s'agissant d'émissions à caractère rédactionnel et de spots publicitaires). Il lui incombe d'établir si les émissions controversées ont violé des dispositions pertinentes du droit fédéral et du droit international. L'AIEP est également chargée d'instituer les trois organes de médiation régionaux des diffuseurs autres que la SSR et de les surveiller*). Oui, notre autorité dispose de telles compétences. Comme autorité de surveillance, l'Autorité indépendante d'examen des plaintes (AIEP) est chargée de traiter les plaintes concernant le contenu des émissions rédactionnelles (à l'exclusion des spots publicitaires) et celles visant le refus d'accès à un programme (qu'il s'agisse d'émissions rédactionnelles ou de spots publicitaires). L'AIEP doit ainsi examiner en premier lieu si les principes applicables au

contenu des programmes sont respectés par les diffuseurs. Parmi ceux-ci, l'interdiction de la discrimination et la promotion de la diversité jouent un rôle essentiel. Ainsi, l'art. 4 de la loi sur la radio et la télévision (LRTV) pose des exigences minimales quant au contenu des programmes et prévoit notamment à son al. 1 que toute émission doit respecter les droits fondamentaux et qu'elle doit en particulier ne pas être discriminatoire. Par ailleurs, cette disposition pose également à son al. 4 le principe de la pluralité des opinions (qui exige que les programmes reflètent, dans l'ensemble de leurs émissions rédactionnelles, la diversité des événements et opinions). Ce principe a pour but essentiel d'empêcher les médias électroniques d'influencer unilatéralement l'opinion du public. Cela implique que le diffuseur ne doit pas accorder un poids trop important aux positions extrêmes, mais qu'il ne saurait non plus se limiter à faire état des opinions dominantes sur le plan politique, économique ou social. Au contraire, la radio et la télévision, envisagées dans leur ensemble, sont astreintes à relater la pluralité des opinions et doctrines, ce qui implique de prendre également en considération les courants d'idée minoritaires dans une mesure équitable. L'AIEP est chargée en second lieu d'examiner les plaintes dirigées contre le refus d'accorder l'accès à un programme. Bien que la LRTV ne confère pas de droit à l'antenne, le refus de ce droit peut dans certains cas (qui doivent cependant rester une exception !) poser problème du point de vue des droits de l'homme sous l'angle de la discrimination (lorsqu'un groupe est exclu des émissions alors que d'autres y sont admis, par ex. en période d'élection ou de votation lorsqu'un parti est privé de toute possibilité d'émission alors que d'autres partis de même importance se voient accorder un temps d'antenne). Dès lors, un tel droit doit pouvoir être déduit de la Constitution ou de la Convention européenne des droits de l'homme et être porté devant l'AIEP. Lorsque l'autorité constate une violation du droit, ses pouvoirs restent toutefois restreints puisqu'elle ne peut en principe qu'exiger du diffuseur responsable de la violation qu'il remédie au manquement constaté et qu'il prenne des mesures propres à prévenir toute nouvelle violation (art. 89 LRTV). En cas de violations répétées de certaines dispositions (concernant notamment le respect des droits fondamentaux), l'AIEP peut encore menacer le contrevenant d'une amende ou lui en infliger une.

1.1. Powers to combat discrimination and/or promote diversity with regard to recruitment and/or access to professions in the media industry.

Austria - No

Belgium "French speaking community" - Le Conseil supérieur de l'Audiovisuel (CSA) ne dispose pas de compétences en matière de lutte contre les discriminations et/ou de promotion de la diversité à l'embauche et/ou à l'accès aux professions de l'industrie médiatique

Belgium – Flemish Community - Article 39 of the Act on radio and television broadcasting (2009 March 24) goes as follows: '*Any form of discrimination is avoided in the programmes. Programming is structured in such a way that it cannot give rise to discrimination between different ideological or philosophical ideas. Information programmes, communications and programmes of a general informational nature, as well as all parts of information programme must be presented in a spirit of political and ideological impartiality. This article also applies to teletext.*'

Bosnia – Herzegovina - Article 4 of the BiH Communications Law, states: The regulatory principles of broadcasting shall include:

- a/ The protection of freedom of expression and diversity of opinion while respecting generally accepted standards of decency, non-discrimination, fairness, accuracy, and impartiality;
- b/ The development of professional and viable commercial and public broadcasters with the intention of striking an appropriate balance between the two;
- c/ That broadcasters shall be separate from political control and manipulation, so as to strengthen democratic principles and the foundations of a market economy;
- d/ That licences shall be awarded on the basis of a process by which appropriate professional standards of programme content, technical operation and financing are ensured;
- e/ That broadcast advertising shall be regulated so as to be consistent with best European practice.

Furthermore, the Broadcasting Code of Practice is made to conform with the right to freedom of expression as provided by the European Convention on Human Rights and Fundamental Freedoms and other instruments incorporated in the Constitution of Bosnia and Herzegovina, while respecting generally accepted standards of decency, non-discrimination, fairness, accuracy, protection of minors and protection of privacy in all types of programmes.

In article 3, General principles, the Code states inter alia:

- a/ All parts of programme services will respect dignity of individual and basic rights of others.
- b/ Radio and television stations are free in creating and editing programmes while respecting professional and generally accepted values, ethical and aesthetic standards.

With regard to the questions 1.2 and 1.3, the Communications Regulatory Agency underlines that there are no direct provisions on ban on discrimination in the provisions that deal with news and current affairs programmes, flow or stock programmes etc. In this respect, general principles of non-discrimination apply to all programmes, as mentioned in the previous response, and in addition the article 4 of the Code deals with the hate speech, providing that radio and television stations shall not broadcast content that incite to discrimination and/or violence based on ethnicity, gender, and sexual orientation, namely those that encourage harassment or sexual harassment.

FYROM - No such powers are transferred to the Broadcasting Council of Macedonia as an audio-visual regulatory authority.

France - S'agissant de l'embauche ou de l'accès aux professions de l'industrie médiatique, le Conseil supérieur de l'audiovisuel n'a pas de compétence spécifique. C'est la HALDE (Haute autorité de lutte contre les discriminations) qui est chargé de veiller en la matière (Cf. lien vers site de la HALDE). Toutefois, le Conseil travaille en étroite collaboration avec la HALDE notamment au sein de l'Observatoire de la diversité dans les médias audiovisuels qui a été institué le 11 mars 2008 afin, d'une part, de suivre les politiques mises en œuvre par les télévisions en matière de diversité prise dans toutes ses composantes (origine, âge, sexe, handicap...) et, d'autre part, d'apporter son concours aux travaux du Conseil supérieur de l'audiovisuel.

Germany - The variety of offered programmes has priority when selecting and licensing programmes. Programmes in foreign languages are available in cable networks in places where foreign language citizens constitute a huge part of the population (see Art. 42 para.4

HPRG; http://www.lpr-hessen.de/files/hprg_190609.pdf). The state media authorities have the supervision over linear and partly non-linear media services, but only within the scope of state's and Laenders' media laws (URLs see below).

Italy - NONE

Hungary – We do not have such powers. Yet, Act 125 of 2003 on equal treatment and on the promotion of equal chances provides for the promotion of diversity and combats discrimination in general.

Romania - No, NAC have no attributions regarding the professions in media industry: they exert their right to control the content of programme services (Audiovisual Law no 504/2002, art. 10, par.4).

Slovak Republic - No

Spain / Catalonia - The legislation don't transfer competences to the Catalonia Audiovisual Council on that issue. For instance, the Act 3/2007, of 22nd March, regarding the effective equality of women and men, establishes transversal measures in order to guarantee this equality. Regarding the media, this Act lays down several provisions for the public service and commercial broadcasters, as well as monitoring instruments with the aim to eradicate discriminatory advertising. The Act 3/2007 gives competence to the Audiovisual authorities to monitor the compliance of the measures established by this Act. Besides, this Act also contains provisions related to the equality opportunities at work, non specifying the sectors. <http://www.boe.es/boe/dias/2007/03/23/pdfs/A12611-12645.pdf>

Sweden – No

Switzerland – OFCOM - Anyone who wants to get a license has to guarantee that s/he complies with the employment law regulations and the working conditions of the industry, the applicable law and in particular the obligations and conditions associated with the license. However, these concern but topics such as the salary, the working hours and training.

Switzerland AIEP - Non

The Netherlands - Not applicable.

UK - Ofcom has a duty under section 27 of the Communications Act 2003 to promote equal opportunities in employment in broadcasting. Section 337 obliges Ofcom to include conditions in radio and television licences that require broadcasters to make arrangements to promote equal opportunities in employment on the basis of gender, race and disability. It is therefore a condition of UK licensed radio and television broadcasters' licences that every

licensee must have in place arrangements for promoting equal opportunities in employment on the basis of gender, race and disability and that in making and reviewing their arrangements they have regard to any relevant guidance published by Ofcom. Ofcom provides guidance to broadcasters on good practice and collects information about broadcasters' equal opportunities arrangements by means of an annual reporting process. Ofcom then publishes this information in a summary report. The guidance can be found at <http://www.ofcom.org.uk/tv/ifi/guidance/guidance/>. With effect from 1 April 2009, the Broadcast Training and Skills Regulator (BTSR) has taken on co-regulatory responsibilities for broadcasters' equal opportunities arrangements. Following extensive public consultation and further discussions with the broadcasting industry, Ofcom concluded that this would be a more effective way of promoting equal opportunities. You can read more about Ofcom's reasons at: <http://www.ofcom.org.uk/consult/condocs/equalopp/eostatement/>. We believe that BTSR will be able to provide guidance and support to broadcasters and help ensure that real progress is made in this area. Broadcasters are already familiar with BTSR through its co-regulation of broadcasters' training arrangements.

1.2 Powers to combat discrimination and/or promote diversity in connection with the production and dissemination of information.

Austria - Within the scope of the power to control broadcasting programs (Radio and TV) the Austrian Regulatory Authority for Broadcasting, KommAustria, also controls the compliance of those programs with general program standards. According to § 31 of the Private TV Broadcasting Act (PrTV-Gesetz) broadcasts of the broadcasting organizers shall respect and protect human dignity and the fundamental rights of others. The broadcasts must not incite to hatred on the basis of race, sex, religion, disability or nationality. According to § 16 (4) of the Private Radio Broadcasting Act (PrR-Gesetz) the presentation and contents of any programs must respect human dignity and the fundamental rights of other people, they must not instigate anyone to hate on grounds of race, sex, religion or nationality.

Belgium "French speaking Community" - Le CSA ne dispose pas de compétences spécifiques en matière de lutte contre les discriminations et/ou promotion de la diversité relatives à la production et à la diffusion de l'information. Toutefois, elle dispose de compétences générales relatives au contenu des programmes. L'article 9, 1° du décret coordonné sur les services de médias audiovisuels énonce que « *la RTBF et les éditeurs de services soumis au présent décret ne peuvent éditer des programmes (...) contenant des incitations à la discrimination, à la haine ou à la violence, en particulier pour des raisons de prétendue race, d'ethnie, de sexe, de nationalité, de religion ou de conception philosophique, de handicap, d'âge ou d'orientation sexuelle ou tendant à la négation, la minimisation, la justification, l'approbation du génocide commis par le régime nazi pendant la seconde guerre mondiale ainsi que toute autre forme de génocide.* » Cette interdiction s'applique à tout type de programme, y compris les programmes d'information. Par ailleurs, le CSA est chargé de veiller au respect des obligations de la radio télévision publique de la Communauté française, la RTBF. Le contrat de gestion de la RTBF contient des dispositions spécifiques relatives à la lutte contre les discriminations et à la promotion de la diversité. Notamment, son article 6 e) engage la RTBF à « *s'intéresser, dans ses programmes et contenus audiovisuels d'information et d'éducation permanente, mais aussi de manière transversale dans ses autres programmes et contenus audiovisuels, aux enjeux de société importants, tels que (...) l'égalité des hommes et des femmes, la lutte contre les discriminations, la lutte contre l'homophobie, l'égalité des chances, le respect des minorités, la diversité culturelle (...).* »

Belgium Flemish Community - Within the Flemish Community, the Flemish Regulator for the Media, which is an external independent agency with a legal personality under public law, enforces the media regulations. The chamber overseeing impartiality and the protection of minors pronounces on disputes which have arisen in connection (midst others) with the above mentioned article 39. The chamber can impose the following sanctions:

- a warning with the order to put an end tot the violation;
- the order to broadcast the decision at the time and in the way that was instructed by it.

Czech Republic - See our Broadcasting Act 231/2001 - Article 5 - Powers and duties of the Council. The Council shall have the following powers and duties:

- a) supervise compliance with legal regulations in the area of radio and television broadcasting and the conditions stipulated in the decision on granting the licence or in the decision on registration,*
- b) grant, change and withdraw licences for the operation of radio and television broadcasting,*
- c) grant, change and cancel decisions on registration to operate retransmission,*
- d) maintain records on broadcasters and retransmission broadcasters,*
- f) impose sanctions pursuant to this Act,*
- g) monitor the broadcasting,*

Article 32 - Basic duties of broadcasters and retransmission broadcasters

(1) The broadcaster shall:

- c) ensure that the broadcast programme units do not arouse hatred for reasons relating to race, gender, religion, nationality or membership of a certain group of the population*

France - Concernant l'information, le Conseil n'a pas de compétence particulière au stade de la production. En revanche, au stade de la diffusion, le Conseil est en mesure de sanctionner les éventuels manquements aux principes fondamentaux d'ordre déontologique. Par ailleurs, le Conseil mène actuellement une étude qualitative sur la représentation de la diversité dans les journaux télévisés.

Germany – See 1.1.

Italy - The law gives Authority the duty to control the respect of the following provisions of the legislative decree n.177/05, related to promote diversity and to combat discrimination. Art. N. 3, (private and public broadcasters): “Fundamental principles of the radio-television broadcasting system arethe objectivity, the completeness, the loyalty and the impartiality of information, the access to media by all different political, social, religious and cultural opinions and trends”. Art. N.4: “The broadcasters must transmit programs that respect the fundamental human rights; ...It is forbidden to transmit programs that contain subliminal messages ... or incitments to hate, that can provoke intolerant behaviours due to differences of race, sex, religion or nationality.....”

FYROM - The Law on Broadcasting Activity (Articles 68, 69) in a pretty narrow way stipulates that the broadcasters should produce their programming in a non discriminatory way in terms of

gender, race, national, ethnic or social background, political or religious conviction, wealth and social status of the individual and the citizen. Article 68 - Broadcasters shall pursue their activity through transmission of radio or television programmes. Radio and television programmes shall be based on the following principles: - The right to free reception and transmission of information, and the right to freedom of expression; - Fostering and development of humane and ethical values of human beings, and protection of the privacy and dignity of each person; - Equality of freedoms and rights irrespective of the sex, race, national, ethnic or social background, political or religious conviction, wealth and social status of the individual and the citizen; - Promotion of the spirit of tolerance, mutual respect and understanding of all individuals of diverse ethnic and cultural backgrounds; - Promotion of international understanding and cooperation, and the public notion of fairness and the need to protect the democratic freedoms; - Openness of programmes to expressions of diverse culture that are integral parts of the society; - Preservation and fostering of national identity, linguistic culture and national cultural creation; - Openness to diverse political views and positions; - Objective and unbiased presentation of events, with equal treatment of diverse views and opinions, enabling the free creation of a public opinion on individual events and issues; - Respect for copyrights and related rights; - Respect of the confidentiality of sources of information; - Guarantees for the right to reply and correction; - Autonomy, independence and accountability of broadcasters, i.e. editors, journalists and other authors involved in the creation of programmes and editorial policy. Article 69 - Programme contents aimed at the violent overthrow of the constitutional order of the Republic of Macedonia, programmes which encourage or call for military aggression or incite national, racial or religious hatred and intolerance shall be prohibited from the programmes of broadcasters and in programmes retransmitted via public commercial networks. The Broadcasting Law (article 166) foresees a penalty, if a broadcaster violates Article 69: Article 166 - The broadcaster or any other legal person shall be subject to a fine amounting from 200,000 to 300,000 denars if: ... (10) transmits and retransmits programmes that are directed towards the violent destruction of the constitutional order of the Republic of Macedonia or towards initiating and calling for war aggression or exciting national, racial, gender and racial hatred or animosity (Article 69).

Hungary

'Broadcasters shall operate with respect to the constitutional order of the Republic of Hungary, their activities may not violate human rights and may not contain facilities for inciting hatred against individuals, sexes, peoples, nations, national, ethnic, linguistic and other minorities, and church or religious groups. Broadcasting may not be aimed, openly or surreptitiously, at insulting or for the disassociation of any minority or majority group of society, or to depict any view of them, discriminating or otherwise, on the basis of racial considerations.'

Luxembourg

Art. 6. - Contenu des programmes - (1) Les programmes radiodiffusés luxembourgeois doivent respecter dans leur contenu les principes suivants :

- a) ils doivent être de qualité, avoir une vocation de culture, d'information et de divertissement et respecter les sensibilités intellectuelles et morales du public ;
- b) ils ne peuvent ni mettre en péril la sécurité nationale ou l'ordre public, ni constituer une offense à l'égard d'un Etat étranger ;
- c) ils doivent se conformer aux bonnes mœurs ainsi qu'aux lois luxembourgeoises et aux conventions internationales en vigueur au Grand-Duché; et
- d) ils ne peuvent contenir aucune incitation à la haine pour des raisons de race, de sexe, d'opinion, de religion ou de nationalité.

(2) Sont interdits tous les éléments de programme susceptibles de nuire gravement à l'épanouissement physique, mental ou moral des mineurs, notamment les éléments de programme comprenant des scènes de pornographie ou de violence gratuite.

(3) Sont également interdits tous les autres éléments de programme susceptibles de nuire à l'épanouissement physique, mental ou moral des mineurs, sauf s'il est assuré, par le choix de l'heure d'émission ou par toutes mesures techniques, que les mineurs ne voient pas ou n'entendent pas normalement ces éléments de programme.

(4) Chaque programme radiodiffusé luxembourgeois doit être enregistré dans sa totalité, et l'enregistrement doit être conservé pendant la durée d'un mois. Au cas où un élément de programme fait l'objet d'un droit de réponse ou d'une contestation sur le respect de la présente loi ou du cahier des charges, l'enregistrement doit être conservé aussi longtemps qu'il est susceptible d'être utilisé comme un élément de preuve.

(5) Une copie de l'enregistrement d'un élément de programme doit être délivrée sur demande aux autorités de surveillance ou aux instances judiciaires saisies d'une contestation à propos de l'élément de programme concerné.

(6) Chaque programme radiodiffusé luxembourgeois doit s'identifier régulièrement vis-à-vis du public par sa dénomination officielle.

(7) Le contrôle du respect des dispositions du présent article est assuré pour les programmes de radio sonore à émetteur(s) de faible puissance par la Commission indépendante de la radiodiffusion créée par l'article 30, et pour les autres programmes radiodiffusés luxembourgeois par le ministre ayant dans ses attributions les médias, avec le concours du Conseil national des programmes créé par l'article 31.

Art. 7. - Contenu publicitaire.

(1) Les programmes radiodiffusés luxembourgeois peuvent contenir des messages publicitaires, pour autant que la présente loi, ses règlements d'exécution et les cahiers des charges ne prévoient pas une interdiction ou une limitation.

(2) Un règlement grand-ducal :

- a) établira des restrictions générales quant au volume et quant à la nature des messages publicitaires contenus dans les programmes radiodiffusés luxembourgeois; et
- b) pourra rendre applicables les dispositions de l'article 28 ou certaines de ces dispositions, soit à certaines catégories, soit à l'ensemble des programmes radiodiffusés luxembourgeois.

(3) Il ne peut être fait de propagande en faveur du tabac et de ses produits dans les programmes radiodiffusés luxembourgeois.

Romania - NAC issued the Code of regulation of audiovisual content, which forbids discrimination based on race, sex, nationality, religion, political convictions and sexual orientation or ethnic group (art. 46, par. 2), pejorative referrals to aged or disabled persons (art.42, par.2), in the spirit of the respect towards the right to freedom of thinking, of conscience and of religion (art. 45, par 2). NAC control and penalize the content of programme services in cases of infringement of legal provisions mentioned above.

Slovak Republic - No

Spain / Catalonia - The Catalonia Audiovisual Council elaborated in 2002 the document Recommendations on the News Treatment of Immigration; and in 2004, the document Recommendations on the Coverage of Gender Violence in News and Entertainment Programmes. Besides, the Catalonia Audiovisual Council created the Commission for Audiovisual Diversity. This Commission is chaired and vice-chaired by commissioners of the

Catalonia Audiovisual Council <http://www.mesadiversitat.cat/> . The Commission for Audiovisual Diversity has elaborated, Among other materials, the following documents: Translation into Catalan language (with the kindly permission of the EBU) of the Diversity toolkit for factual programmes in public service television

http://www.ebu.ch/CMSimages/en/toolkit%20low_tcm6-56142.pdf

Approach to the diversity for the media handbook.

http://www.mesadiversitat.cat/materials_mesa/manual_apropament

Cultural diversity in European and Canadian radio and televisions

http://www.mesadiversitat.cat/materials_mesa/

DiversiTAC <http://www.kultic.net/diversitac/>

Monographic review on immigration and television

<http://www.cac.cat/web/recerca/quaderns/hemeroteca/detall.jsp?NDg%3&MQ%3D3D&Jyc%3D&MQ%3D%3D>

Uses and attitudes of the immigrant people towards the media

http://www.mesadiversitat.cat/altres_materials/

Proposals for the improvement of the informative treatment of immigration

http://www.mesadiversitat.cat/altres_materials/

Sweden - No

Switzerland OFCOM - There is one rule in the law as well in the PSB's license that could count for promoting diversity: The PSB's programme services shall be produced predominantly in the language regions for which they are intended. This rule does not, however, affect news and current affairs programmes only.

Switzerland AIEP - Oui

Préalablement, il s'agit de préciser que l'AIEP est une autorité qui n'intervient que sur plainte, en principe dirigée contre une émission diffusée à la radio ou à la télévision (sous réserve d'une plainte à l'encontre du refus d'accorder l'accès à un programme). Dans ce cas, il doit s'agir d'émissions à caractère rédactionnel. Sont considérées comme telles toutes les émissions (productions journalistiques du diffuseur mais aussi produits fournis tels que films etc...), à l'exception des messages à vocation commerciale (publicité). L'AIEP est dès lors compétente aussi bien pour des émissions d'actualités, des magazines d'informations, des talk-shows, des émissions de variétés diffusées en direct que pour des fictions, des films etc. mais pas en ce qui concerne la publicité. La loi ne fait pas aucune distinction entre ces différents types d'émissions. En matière de discrimination, l'AIEP sera par exemple chargée de constater dans quelle mesure le contenu d'une émission d'actualités (par ses propos, ses images etc.) porte atteinte au plaignant ou à un groupe de personnes en raison sa religion, de sa race, de son ethnie etc..... Par ailleurs, l'AIEP pourra également être amenée à constater si l'exclusion d'un groupe politique à l'antenne avant des élections est justifiée ou non. A cet égard, le responsable d'une émission dispose d'une marge d'appréciation relativement importante dans l'aménagement de celle-ci, même lorsqu'il s'agit d'émissions traitant d'élections ou de votations en cours, mais il doit respecter le principe selon lequel chaque candidat et chaque parti doit pouvoir participer à l'élection à égalité de chances. L'art. 97 al. 2 LRTV pose le champ de compétence de l'AIEP - *Art. 97 Décision* : Les délibérations de l'autorité de plainte sont publiques, pour autant qu'aucun intérêt privé digne de protection ne s'y oppose.

L'autorité de plainte établit:

- a. si les émissions contestées enfreignent les dispositions relatives au contenu des émissions rédactionnelles de la présente loi (art. 4 et 5) ou du droit international applicable;
- b. si le refus d'accorder l'accès au contenu du programme est illicite.

Si l'autorité de plainte constate une violation, elle peut prendre les mesures prévues à l'art. 89. En cas de violations répétées des obligations prévues aux art. 4, al. 1 et 3, ainsi qu'à l'art. 5, et de refus illicite et répété d'accorder l'accès au programme, l'autorité de plainte peut menacer le contrevenant d'une sanction administrative selon l'art. 90, al. 1, let. h, ou la prononcer. Dans les cas particulièrement graves, l'autorité de plainte peut en outre, en vertu de l'art. 89, al. 2, déposer une demande d'interdiction de diffuser ou exiger qu'une charge soit imposée au contrevenant. L'art. 4 LRTV est quant à lui la disposition principale qui fixe les exigences minimales quant au contenu des programmes, notamment sous l'angle de la discrimination et du principe de la pluralité des opinions. Cette disposition dont le libellé est très large ne distingue pas entre les émissions d'information, d'actualités et les autres émissions telles que reportages, documentaires, programmes pour enfants etc...

Art. 4 Exigences minimales quant au contenu des programmes

Toute émission doit respecter les droits fondamentaux. Elle doit en particulier respecter la dignité humaine, ne pas être discriminatoire, ne pas contribuer à la haine raciale, ne pas porter atteinte à la moralité publique et ne pas faire l'apologie de la violence ni la banaliser.

Les émissions rédactionnelles ayant un contenu informatif doivent présenter les événements de manière fidèle et permettre au public de se faire sa propre opinion. Les vues personnelles et les commentaires doivent être identifiables comme tels. Les émissions ne doivent pas nuire à la sûreté intérieure ou extérieure de la Confédération ou des cantons ni à leur ordre constitutionnel, ni violer les obligations contractées par la Suisse en vertu du droit international. Les programmes des concessionnaires doivent refléter équitablement, dans l'ensemble de leurs émissions rédactionnelles, la diversité des événements et des opinions. Si une zone de desserte est couverte par un nombre suffisant de diffuseurs, l'autorité concédante peut exempter un ou plusieurs concessionnaires de l'obligation de diversité.

The Netherlands - Not applicable

UK - Ofcom does not have any powers in this regard. Rather, Ofcom's powers are limited to ensuring that broadcasters have arrangements in place to promote equal opportunities in the workplace on the basis of gender, race and disability.

1.3 Powers to combat discrimination and/or promote diversity in connection with the production and dissemination of flow or stock programmes.

Austria - See 1.2

Belgium "French Speaking Community" - Le CSA ne dispose pas de compétences particulières en matière de lutte contre les discriminations et/ou de promotion de la diversité relatives à la production et à la diffusion de programmes de flux ou de stocks. Toutefois, l'article 9, 1° précité du décret coordonné sur les services de médias audiovisuels s'applique également à ce type de programmes. Par ailleurs, l'article 11, 2° du décret sur les services de médias audiovisuels prévoit une interdiction des discriminations dans la communication

commerciale, celle-ci ne pouvant « *comporter ou promouvoir de discrimination en raison de la prétendue race, de l'origine ethnique, du sexe, de l'orientation sexuelle, de la nationalité, d'un handicap ou de l'âge* ».

Czech Republic - Like 1.2

France - Le Conseil n'a pas de pouvoir spécifique au niveau de la production de programmes de flux ou de stocks. En France, c'est le CNC (Centre National du cinéma et de l'image animée) et l'Acisé (Agence nationale pour la cohésion sociale et l'égalité des chances) qui peuvent soutenir des œuvres audiovisuelles ou cinématographiques qui contribuent la promotion de la diversité et ce dans le cadre de la Commission « Images de la diversité ». Des aides financières sont alors attribuées. Lors de la diffusion, le Conseil supérieur de l'audiovisuel peut sanctionner les éventuels manquements aux principes déontologiques et les éventuelles discriminations.

FYROM - There are no special powers to fight this type of discrimination. Normally, the Broadcasting Council could call upon the article 69 from the Law on Broadcasting.

Germany - Public media are open to foreign-language and foreign users and are seen as a tool of integration.

Italy - Art. N.4: "The broadcasters must transmit programs that respect the fundamental human rights; ...It is forbidden to transmit programs that contain subliminal messages ... or incitements to hate, that can provoke intolerant behaviours due to differences of race, sex, religion or nationality....."

Romania - See the answer to point 1.2.

Slovak Republic - No

Spain / Catalonia - Please, see answer to question no. 1.2.

Sweden - No

Switzerland - See 1.2 above

Switzerland AIEP - Oui. Voir réponse 1.2. La LRTV ne prévoit pas expressément de distinctions entre les programmes de flux ou de stocks. Dès lors où il s'agit d'une émission rédactionnelle, l'AIEP est compétente pour intervenir (voir réponse 1.2).

The Netherlands - Not applicable

UK - As 1.2

1.4 Please describe the types of power vested in your authority in connection with action to combat discrimination and promote diversity?

Austria - See 1.2 - Victims have the possibility to complain against the dissemination of discriminating content in Radio or TV programs. The regulatory authority shall decide on alleged infringements of provisions of the present federal law on the basis of complaints by a person who submits a well-justified claim that he/she is affected by a violation of the above mentioned provisions (§ 31 PrTV-G and § 16 (4) PrR-G) in his/her specific interests, if that person was actually able to receive the broadcast in which the alleged violation occurred, if the alleged violation is of significant importance with a view to the objectives of the allegedly violated provision – such as, for example a massive violation of the protection of human dignity. The decision by the regulatory authority consists in determining whether and by what facts the provision of the present federal law has been violated. If the regulatory authority establishes that the present federal law has been violated, which continues to prevail at the time of the determination, the broadcasting organizer shall create immediately a condition that correlates with the legal view held by the regulatory authority. In case of repeated and serious violations of the law by the broadcasting organizer the regulatory authority shall initiate, either ex officio or upon application, the procedure for the withdrawal of the license, in case of a cable broadcasting organization according to § 9 (1) PrTV-Gesetz the procedure for the prohibition of the cable broadcasting organization.

Belgium “French Speaking Community” - Les personnes discriminées, ainsi que toute autre personne, peuvent déposer plainte auprès du CSA lorsqu’elles constatent qu’un éditeur de services diffuse un programme contraire aux interdictions des articles 9,1^o et 11,2^o du décret coordonné sur les services de médias audiovisuels précités, ou en cas de manquement de la RTBF à l’une des obligations de son contrat de gestion. La procédure de traitement des plaintes est régie à l’article 161 du décret coordonné sur les services de médias audiovisuels. Le secrétariat d’instruction du CSA instruit les plaintes recevables et décide soit de classer sans suite, soit de transmettre le dossier au Collège d’autorisation et de contrôle. Le Collège d’autorisation et de contrôle peut, sur base du dossier d’instruction, notifier des griefs à l’éditeur incriminé. A l’issue d’une procédure contradictoire, il peut ensuite décider de prononcer l’une des sanctions prévues à l’article 159 §1^{er} du décret coordonné sur les services de médias audiovisuels, allant de l’avertissement au retrait de l’autorisation.

Bosnia-Herzegovina - Victims of discrimination, as all other citizens, can lodge complaints against an individual broadcaster, and the Agency can issue a sanction if it determines that the Code has been violated, but this is always done for the protection of public interest, not in order to provide any kind of personal settlement for the victims of discrimination.

Czech Republic - *Victims of discrimination can complain to the Broadcasting Council. The Council assesses their complaint and in case of violation of the law can start the administrative procedure.*

FYROM - The Broadcasting Law foresees program diversity in the article 68. There is no mechanism for redress for the victims of discrimination, foreseen by this law.

Germany - State media authorities and other institutions are researching on media use of foreign citizens on a regular basis (e.g. Turkish fellow citizens).

Italy - In the case of violation of provision related to the access to news and current affairs programmes of subjects representatives of different social, political, religious and cultural groups, the subjects can denounce the violation to the Authority. If the subjects have been damaged, Authority can order broadcasters to give them spaces in the programming (law 28/00 and legislative decree 175/05). Legislation gives Authority also sanctionary powers in the case of violation of provisions related to combat discrimination (art. 4, legislative decree 177/05).

Hungary - Apart from sanctioning the violations of the above cited section 3 of Act of 1996 on radio and television broadcasting, the National Radio and Television Commission operates a Complaint Committee as well.

Luxembourg - Le CNP agit sur demande des spectateurs qui y disposent leur plainte. Le CNP peut émettre un blâme à l'encontre de l'opérateur concerné ou demander (dans le pire des cas) au Premier Ministre de retirer la concession de l'opérateur

Romania - According to Audiovisual Law no 504/2002 and to the Code of regulation of audiovisual content (NAC Decision no 187/2006), NAC warrant the right to reply and to rectification by means of specific procedures for the exertion of these rights, procedures which do not exclude the possibility to address a court of law.

Slovak Republic - They do not

Spain / Catalonia - As said, the basic principles of regulation of broadcasting content. Within the legitimate exercise of the fundamental rights of freedom of expression and information, broadcasting activities are subject, among others, to the following limits:

- a) Respect for dignity, as an essential feature of human personality.
- b) Non-incitation of hate on the basis of race, sex, religion or nationality.
- c) Respect for the right of all people not to be discriminated against on the basis of birth, race, sex, religion, nationality or any other personal or social condition or circumstance.
- d) Respect for the human rights recognized by the Spanish Constitution, in particular the fundamental rights to honour, privacy and one's own image. (...)"

The Catalonia Audiovisual Council receives queries and complaints from the viewers. For instance, there are complaints about sexist advertising, in which people complain about advertising portraying women as a mere object. There are another ones protesting about the representation of women and immigrant people.

Sweden - See above. Also note that the only kind of redress that can be expected is the public announcement from the broadcaster.

Switzerland OFCOM - If somebody thinks that there has been a discriminatory representation on screen, the means of redress are the same as for anybody else who is disturbed by a specific content: S/he can report the programme to the competent ombudsman service. The ombudsman then tries to mediate between the parties, but he has no power to make decisions or issue directives. The ombudsman finally informs the parties in writing of its findings and the manner in which the report is to be settled. If one of the parties involved is not happy with the result, it can file a complaint at the UBI (Independent Complaints Authority). If the UBI established that a violation has occurred, it may take or apply for the measures provided for in Article 89 of the RTVA. If the supervisory authority establishes an infringement of the law, it may:

- a. require the natural or legal person responsible for the infringement:
 1. to remedy the deficiency and take measures to ensure that that the infringement does not recur,
 2. to inform the authority of the precautions taken,
 3. to surrender to the Confederation the revenue achieved as a result of the infringement;
- b. request the Department to make the licence subject to conditions, or to restrict, suspend or revoke the licence.

Switzerland AIEP - En vertu du libellé très large de l'art. 4 LRTV, l'AIEP dispose d'un pouvoir d'appréciation étendu dans l'examen du cas concret. Les personnes s'estimant lésées peuvent saisir l'AIEP d'une plainte, mais elles doivent préalablement s'adresser par une réclamation à l'organe de médiation compétent. En cas de rejet de la plainte par l'AIEP, elles peuvent alors former un recours en matière de droit public directement devant le Tribunal fédéral selon l'art. 99 LRTV.

The Netherlands - Not applicable

UK - As 1.2

1.5 Have any specific tools been placed at your authority's disposal to combat discrimination and promote diversity?

Austria - No

Belgium "French Speaking Community" - Le CSA ne dispose pas de moyens d'actions spécifiques en matière de lutte contre les discriminations et de promotion de la diversité. Il estime toutefois que ces questions sont primordiales dans son rôle de régulation des médias audiovisuels et s'investit par conséquent de différentes manières dans l'action et dans la réflexion.

Il a notamment signé un protocole de collaboration avec le Centre pour l'égalité des chances et la lutte contre le racisme et s'apprête à en signer un second avec l'Institut pour l'égalité des femmes et des hommes (tous deux sont des organismes fédéraux).

Czech Republic - Article 17 - Important facts for decisions on applications for licence granting

(1) In the process of decision-making for granting the licence the Council shall assess the following facts:.....

- c) benefits of the programme structure as proposed by the applicant for licence with regard to the existing variety in the offer of programmes of radio or television broadcasting in the territory to be covered by radio or television broadcasting,
- g) benefits provided by the applicant for the development of the culture of ethnic and other minorities in the Czech Republic.

France - Le Conseil a pris très tôt l'initiative dans ce domaine d'intérêt général, facteur essentiel de cohésion sociale. Dès 2000, après avoir fait réaliser une première étude quantitative sur la perception de la diversité de la société française à la télévision, le Conseil a introduit dans les conventions de chaque télévision privée, un engagement de prendre en considération à l'antenne la diversité des origines et des cultures de la communauté nationale. En janvier 2007, afin d'exercer pleinement les nouvelles compétences que lui avait confiées la loi du 31 mars 2006 pour l'égalité des chances, il a créé en son sein un groupe de travail consacré à la diversité dont la présidence a été confiée à Rachid Arhab et la vice-présidence à Alain Méar. Puis, le 11 mars 2008, il a institué l'Observatoire de la diversité dans les médias audiovisuels afin, d'une part, de suivre les politiques mises en œuvre par les télévisions en matière de diversité prise dans toutes ses composantes (origine, âge, sexe, handicap...) et, d'autre part, d'apporter son concours aux travaux du Conseil. Le Conseil a en outre fait réaliser en 2008 une étude relative à la perception de la diversité sur les chaînes gratuites de la télévision numérique terrestre et sur Canal +, selon les critères du genre, des catégories socioprofessionnelles, de l'origine supposée en distinguant les personnes vues comme blanches ou comme non blanches, parmi lesquelles celles vues comme noires, comme arabes, comme asiatiques ou autres. Sur la période considérée, l'étude a mis en évidence que les femmes, ainsi que certaines catégories socioprofessionnelles, en particulier les ouvriers et les employés, sont sous-représentées au regard de leur présence dans la société française. Elle a également mis en exergue que la représentation de la diversité des origines, thème de société largement traité par les médias, a très peu progressé ces dix dernières années. Enfin, elle a fait ressortir que plus les programmes s'approchent de la réalité quotidienne de la société française, moins la diversité est perceptible, en particulier s'agissant des fictions françaises, des sujets des journaux télévisés traitant de l'actualité française et des divertissements, tels que les jeux, qui font appel à la présence d'animateurs et à la participation du public. A la suite de la publication le 12 novembre 2008 de ces résultats, le Conseil a décidé de faire réaliser, pendant trois ans au moins, un baromètre bi-annuel destiné à évaluer la perception de la diversité à la télévision. Il a ensuite invité chaque éditeur à participer, en décembre 2008, à une réunion de travail afin, d'une part, d'examiner les résultats de l'enquête le concernant et, d'autre part, d'évoquer, dans le cadre d'un dialogue constructif, des objectifs concrets et précis d'amélioration de la représentation de la diversité sur son antenne. Lors de leur audition par le Conseil, les diffuseurs ont systématiquement évoqué non seulement les efforts pour davantage représenter la diversité sur leurs antennes mais aussi les politiques de ressources humaines menées au sein de leurs sociétés. Certains n'ont pas manqué d'établir un lien entre les deux aspects et ont insisté sur les difficultés propres au recrutement de certaines catégories professionnelles et notamment les journalistes et les comédiens. La plupart des chaînes considèrent qu'il leur est très difficile de recruter des journalistes issus des minorités, en raison notamment des

recrutements effectués par les écoles de journalisme, souvent présentées comme « élitistes » et « peu représentatives ». S'agissant des comédiens, de nombreuses chaînes déplorent le peu de propositions faites par les agences de casting de comédiens issus de la diversité. Sensible à ces constats, le Conseil a décidé de mener, avec l'appui de l'Observatoire de la diversité dans les médias audiovisuels, une action de sensibilisation des écoles de journalisme et des différents intervenants artistiques dans la création française (sociétés d'auteurs, agences de casting, syndicats de producteurs). Le constat préoccupant de l'insuffisant reflet de la diversité de la société française dans les programmes des services de télévision appelle, en effet, une évolution rapide et massive des pratiques des éditeurs. Leur programmation doit offrir aux téléspectateurs le visage fidèle de la société française, conforme à la richesse de ses nombreuses et différentes composantes. Le Conseil a donc souhaité inscrire la représentation de la diversité de la société française au cœur de son action de régulation en incitant chaque éditeur, tout en tenant compte de sa situation, à favoriser concrètement l'expression de cette diversité.

Germany – See 1.4.

Italy - None - Note: according to art. 48 of radio-television code (D. Lgs. 177/2005) PSB must broadcast programmes in the languages of regional linguistic minorities (German for Bolzano, Ladino for Trento, French for Val d'Aosta and Slovene for Friuli-Venezia Giulia); furthermore, it can promote in its regional programming the production of news and current affairs programs, with the use of languages of the linguistic minorities with the collaboration of local institutions (according the provisions of the contract of service between Rai and the Ministry of communications containing the licence of PSB).

Hungary - Yes, the National Radio and Television Commission manages the broadcasting fund, which – among other remits – provides funding to public service programmes. Such funds were allocated through tendering to public service broadcasters for the production of television programmes in the languages of ethnic and national minorities in Hungary. The Slovenian Radio and Radio C (for Roma) were all granted funding for their daily operations. In two technical tenders for the creation of cable network, conditions of the tenders favoured those who distributed minority programmes. A tender for the funding of documentary programmes provided extra credit for programmes focusing on the Roma minority and another for programmes dealing with equal treatment.

Lithuania - The Radio and Television Commission of Lithuania has no powers in this regard.

Romania - Not on a permanent basis. It must be mentioned that, among many other partnerships, NAC held a Cooperation Agreement with the National Council for the Fight against Discrimination and the Council of Europe Bureau in Bucharest in the aim of launching and implementing in Romania the Council of Europe campaign "Say NO to Discrimination", which unfolded between 1st June and 15th September 2009. and consisted of an Awareness Campaign on the topic of human rights and the fight against discrimination.

Slovak Republic - No they haven't been.

Spain / Catalonia - The Catalonia Audiovisual Council analyses the broadcastings and advertising contents and if considers there has been a breach of the audiovisual legislation, initiates the procedure to restore the legality. Besides, and among other possibilities, the victim also has the option to combat discrimination by himself or herself (e.g. if he or she considers there's an infringement of the Honour rights, or the self-image rights, etc.) as the laws developing fundamental rights establish procedures that can only be started by the victim (e.g. organic law 1/1982, of 5th May).

Sweden - No

Switzerland – AIEP - Non, l'AIEP ne dispose pas d'actions spécifiques en matière de lutte contre les discriminations et de promotion de la diversité.

The Netherlands - Not applicable

UK - Ofcom provides guidance to broadcasters on good practice and collects information about broadcasters' equal opportunities arrangements by means of an annual reporting process. Ofcom then publishes this information in a summary report. This is limited to the promotion of equal opportunities in the work place. A toolkit for broadcasters can be found at <http://www.ofcom.org.uk/tv/ifi/guidance/eo-toolkit/>.

2 If your authority does not have this type of power, does the law provide for other organisations to combat discrimination and promote diversity in the audiovisual sphere?

Austria - There are no other organisations with the power to combat discrimination and to promote diversity specifically in the audiovisual sphere. On the other hand there has to be mentioned the Commission for Non-Discrimination which has been constituted in the field of employment (public and private services) according to the Federal Act for Non-Discrimination (Gleichbehandlungsgesetz).

Belgium Flemish Community - 2. Not applicable.

Czech Republic - There is one more organisation to combat discrimination and i.e. is the Office of Ombudsman and application of anti-discrimination law.

Lithuania - The Office of Equal Opportunities Ombudsman is an independent state institution answerable to the Parliament; it is one of the key institutions within the equal opportunities and gender equality machinery. It takes overall responsibility for the supervision and implementation of the Law on Equal Opportunities for Women and Men (1998) and Law of Equal Treatment (2005) in Lithuania. The Ombudsman investigates individual complaints on the grounds of gender, age, racial or ethnic origin, religious beliefs, disability, sexual orientation, language, social status; submits recommendations and proposals to the

Parliament, governmental institutions on the priorities of gender equality policy, including recommendations on amendments to relevant legislation. In cooperation with other office officials the Ombudsman supervises mass media so that it does not place discriminatory advertisements and does not treat one social exclusion group as in any way superior or better in regard to the other. It is very difficult to answer the questions below as they are very much specified. The Ombudsman has the powers to control those issues in general. The Laws do not specify different types of discrimination nor any specific kind of programmes in which discrimination cases might occur, however if a person complained about such a case, the Ombudsman would act in accordance with the Law on Equal Opportunities for Women and Men, under which the Ombudsman may take a variety of decisions including the decision to transfer the case to court or prosecutor, to apply fines, to ban the unfair advertising, etc.

Luxembourg - Centre pour l'égalité de traitement. www.cet.lu (organe consultatif). Ce centre ne dispose pas spécifiquement de compétences dans le domaine de l'audiovisuel, mais la loi ne les exclut pas non plus.

Romania - No: other bodies (such as the National Council for the Fight against Discrimination or non-governmental organizations) address NAC regarding cases of discrimination in the audiovisual field.

Slovak Republic - The answer to questions in part 2 is bit complicated. We do not have knowledge about the organization in Slovakia focusing on combat discrimination and promote diversity in the audiovisual sphere. There is the Slovak National Centre for Human Rights though. This organization certainly deals with discrimination also in audiovisual sphere among other thing but it covers the whole area of human rights in Slovakia and therefore it does not focus only on the audiovisual sphere. I paste you a link to web page of this organization (English version) where you can find some more information about the Centre and its goals.

http://www.snslp.sk/rs/snslp_rs.nsf/vdb_Homepage/homepage_E?OpenDocument

Sweden - Sweden does have a special authority that addresses the issue of discrimination, the Equality Ombudsman. Further information can be found at their webpage: <http://www.do.se/Other-languages/English/>

Switzerland OFCOM - There are no state agencies that have explicit powers to combat discrimination and to promote diversity in the audiovisual sphere. The "Commission fédérale contre le racisme" (<http://www.ekr.admin.ch/index.html?lang=fr>) as well as the "Service for Combating Racism" (<http://www.edi.admin.ch/frb/00645/index.html?lang=en>) do have a coordinating, motivational, and supporting role, but they to not empowered to issue directives.

Switzerland AIEP - L'Office fédéral de la communication (OFCOM) traite des autres questions liées aux télécommunications et à la radiodiffusion. Dans ces domaines, l'OFCOM s'occupe de toutes les tâches de régulation et d'autorité nationale. Je vous remercie de contacter directement cet office pour toutes les questions ne relevant pas de la compétence de l'AIEP.

2.1. Powers to combat discrimination and/or promote diversity with regard to recruitment and/or access to professions in the media industry.

Austria - See above

Belgium "French Speaking Community" - Le décret du 13 janvier 2009 relatif à la lutte contre certaines formes de discriminations comporte un chapitre consacré à l'emploi. Son champ d'application est limité aux emplois publics de la Communauté française mais recouvrent les relations d'emploi au sein de la RTBF. Les dispositions relatives aux luttes contre les discriminations en matière d'emploi sont mises en œuvre par l'Institut pour l'égalité des femmes et des hommes et par le Centre pour l'égalité des chances et la lutte contre le racisme, chacun dans leur domaine d'action spécifique. Des protocoles de collaboration ont été signés entre la Communauté française et ces organismes afin de leur confier la mise en œuvre du décret. La signature d'un accord de coopération entre ces parties leur permettra à terme de pouvoir ester en justice. Il n'existe pas d'autorité spécialement compétente pour la lutte contre les discriminations, la promotion de la diversité à l'embauche et l'accès aux professions de l'industrie médiatique. Toutefois, le Centre pour l'égalité des chances et la lutte contre le racisme et l'Institut pour l'égalité des femmes et des hommes peuvent traiter de ces questions dans le cadre de leurs missions respectives. Ils traitent tous deux des demandes individuelles, assurent des missions de formation et d'information et émettent des avis et recommandations. Ils n'ont pas le pouvoir d'ester en justice.

Czech Republic - Powers: Ombudsman ensures equal legal treatment disregard from race, ethnical origin, nationality, sex, faith, religion, age, handicap and world view. Ombudsman helps the victims of discrimination, makes research, publishes reports and issues recommendations, communicates and exchanges information with relevant European authorities.

FYROM - According to the Law on Culture, the National Council for Culture, as an expert and advisory authority of the Minister of Culture a special attention is paid to a proportionate and equal representation of the citizens, who belong to all ethnic communities. One area, which is a cultural activity is the film production. The Law on the Film Fund stipulates that the funding of film projects must reflect the multicultural dimension and the multicultural character of Republic of Macedonia.

France - C'est la HALDE (Haute autorité de lutte contre les discriminations) qui est compétente en la matière. Ci-dessous la présentation de ses missions et pouvoirs tels que définis sur son site internet www.halde.fr. La HALDE a pour mission de lutter contre les discriminations prohibées par la loi, de fournir toute l'information nécessaire, d'accompagner les victimes, d'identifier et de promouvoir les bonnes pratiques pour faire entrer dans les faits le principe d'égalité. Qu'est-ce qu'une discrimination? - Une discrimination est une inégalité de traitement fondée sur un critère prohibé par la loi, comme l'origine, le sexe, le handicap etc., dans un domaine visé par la loi, comme l'emploi, le logement, l'éducation, etc. Elle peut être directe, si l'inégalité se fonde sur un critère prohibé, ou indirecte, lorsqu'une règle, une pratique ou un critère apparemment neutre a un effet défavorable sur un groupe visé par un critère de discrimination. Elle peut également prendre la forme d'un harcèlement. Déceler les

discriminations : les tests - La HALDE mène des tests de discriminations ou « testings » pour débusquer les discriminations. Ces tests permettent de comparer le traitement réservé à des personnes « de référence » avec celui réservé à des personnes susceptibles d'être discriminées en raison d'un critère prohibé par la loi. Faire évoluer le droit : avis et recommandations - La HALDE a un pouvoir de recommandation. Elle peut intervenir directement auprès des pouvoirs publics. Consultée par le gouvernement sur tout projet de loi relatif à la lutte contre les discriminations et à la promotion de l'égalité, elle peut aussi proposer une modification législative ou réglementaire et émettre des avis pour remédier aux pratiques discriminatoires ou les prévenir. Les recommandations de la HALDE peuvent également être adressées aux mis en cause dans le cadre du traitement d'une réclamation, pour corriger la situation et adopter une mesure corrective. LA PROMOTION DE L'ÉGALITE - Beaucoup de pratiques discriminatoires sont banalisées. La résignation est la pire des choses. La législation ne suffit pas. Il faut en parler et mettre en place des actions spécifiques pour prévenir les discriminations. La HALDE mène des actions de sensibilisation et d'information pour cela. Faire connaître les bonnes pratiques - Les actions engagées visant à faire progresser l'égalité doivent être étendues et généralisées. La HALDE met des bonnes pratiques sur son site. Tous les acteurs qui souhaitent s'engager dans la promotion de l'égalité peuvent s'en inspirer et faire connaître leurs actions. Utiliser la formation - La HALDE mène des actions de formations spécifiques en direction de certains publics comme les inspecteurs du travail, les magistrats, etc. Elle met à disposition ces formations pour des acteurs-relais qui deviennent eux-mêmes formateurs. Les conventions établies entre la HALDE et les différents partenaires comportent un volet « ingénierie de formation ». La HALDE a mis en place deux modules de formation e-learning, à destination des employeurs et du grand public. Cette formation permet à tous les internautes de se former sur le droit de la discrimination ainsi que sur les stéréotypes et représentations. Étudier de nouveaux moyens d'action et définir des cadres pour agir et rendre compte - La HALDE coordonne des études qui permettent de mieux connaître les pratiques discriminatoires, leur manifestation, leurs conséquences et qui permettent de proposer de nouveaux moyens d'action. Elle publie des résultats d'études dans la collection Études & recherches. Des « cadres pour agir et rendre compte » sont élaborés avec les grandes entreprises, les intermédiaires de l'emploi et les collectivités territoriales. Ils répondent aux besoins exprimés par les professionnels et aident à évaluer leur politique de promotion de l'égalité. La HALDE publie des guides et des brochures répertoriant des mesures concrètes que les entreprises, intermédiaires de l'emploi, professionnels du logement, etc. Mobiliser les partenaires - Pour faire évoluer les mentalités et les pratiques, la HALDE intervient dans tous les domaines et peut solliciter le partenariat des pouvoirs publics, des collectivités territoriales, des associations, des élus, des partenaires sociaux, des différentes professions pour contribuer à la promotion de l'égalité.

Germany - Equal Treatment Act, and especially labour law/ civil law

Hungary - The above referred act 125 of 2003 on equal treatment and on the promotion of equal chances provides for the promotion of diversity and combats discrimination in general.

The Netherlands - Not applicable

UK - n/a

2.2. Powers to combat discrimination and/or promote diversity in connection with the production and dissemination of information.

Austria - No

Belgium "French Speaking Community" - Voir réponse 1.2.

FYROM - The Ministry of Culture with its inspectorate is in charge of the implementation of the legal provisions.

Germany - Supervision over programme and advertising with reference to the respective media laws

Hungary - See above.

The Netherlands - Not applicable

UK - n/a

2.3. Powers to combat discrimination and/or promote diversity in connection with the production and dissemination of flow or stock programmes.

Austria - No

Belgium "French Speaking Community" - Voir réponse 1.3.

Hungary - See above.

The Netherlands - Not applicable

UK - n/a

2.4 Please describe the types of power vested in these organisations in connection with action to combat discrimination and promote diversity?

Belgium " French Speaking Community" - Voir réponses 2.1 et 1.4

FYROM - The Ombudsman institution usually deals with such cases.

Hungary - The Office for Equal Treatment.

Lithuania - The victim may complain to the Office of Equal Opportunities Ombudsman, who will analyse the case and will make a relevant decision. The results will depend on each case.

The Netherlands - Not applicable

UK - n/a

2.5. Have any specific tools been placed at these organisations' disposal to combat discrimination and promote diversity?

Belgium " French Speaking Community" - Voir réponses 2.1 et 1.5

FYROM - The article 22 from the Law on the Film Fund it is stated that the Minister of Culture by a by-law shall determine the criteria for funding of the projects and the elements, which should be part of these projects, in accordance to the multicultural character of the country.

Lithuania - As above

The Netherlands - Not applicable

UK - n/a