

## San Marino

The absence of minority groups and consequently of constitutional or legal provisions specifically governing the linguistic rights of minorities means that any examination of minority-language broadcasting in the context of this country is necessarily based on extrapolation from more general legislative and other provisions. There is no constitutional provision setting out a State or official language. The duties of the public service broadcaster are set out in legislation, but while these duties include the promotion of cultural heritage, the relevant legislation does not contain any explicit reference to the rights or interests of minority groups, *per se*. A common-law country surrounded by countries which espouse the civil law tradition, San Marino is heavily influenced in many matters by the policies and practice of its dominant neighbour, Italy. Broadcasting is no exception and there is even an example of institutionalised cooperation in this sector: a statute-based, common radio and television broadcaster for both countries.

### 1 Introduction

Despite the very small area covered by the Republic of San Marino (61.2 km<sup>2</sup>) and its small population (27,336 inhabitants in July 2001),<sup>1</sup> various dialects are spoken, depending on the region of origin of the inhabitants. San Marino borders on two Italian regions: in the south and west, on the *Marche* (province of Pesaro) and in the north and east, on *Emilia Romagna* (province of Rimini). Apart from the dialects,<sup>2</sup> no official recognition is given to any minority language communities.<sup>3</sup> San Marino ratified the Framework Convention on National Minorities on 5 December 1996. San Marino's foreign policy is aligned with that of Italy. Social and political trends in the republic also closely track those of its larger neighbour.

The dialects usually correspond to the nine historical Castles (San Marino, Borgo Maggiore, Serravalle, Domagnano, Fiorentino, Acquaviva, Faetano, Montegiardino, Chiesanuova) which characterise San Marino and which also represent, through the Castle Committees, the decentralised administrative organ whose origins lie in the united Castles of the Republic of 1463. Today the Committees are present in all nine of the Castles; they are designated by popular voting every four years and are composed of 21 members for districts of more than 2,000 inhabitants and of 15 members for the others. Every Committee has its own Castle Captain who remains in power for two years.

### 2 Constitution

One of the main peculiarities of the law of San Marino is the fact that, despite the codification that characterises all Mediterranean countries, it is a common law country, based on ancient statutes and on the jurisprudence of the tribunals of the Republic. The Statutes (*Leges Statutae Sancti Marini*) were published around 1600 and form the kernel of the legal system of the Republic.<sup>4</sup> They lay down the main provisions on legal sources and institutional

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<sup>1</sup> For facts on San Marino, see: <http://www.cia.gov/cia/publications/factbook/geos/sm.html>.

<sup>2</sup> The Sammarinese language corresponds mainly to the Emiliano-Romagnolo dialect. See further: [http://www.ethnologue.com/show\\_country.asp?name=San+Marino](http://www.ethnologue.com/show_country.asp?name=San+Marino).

<sup>3</sup> As far as ethnic groups are concerned, apart from the Sammarinese, there is also a smaller Italian group: the Sammarinese correspond to 83% of the population; the Italian to 12% and the remaining 5% to other ethnic groups, not specifically identified. See further:

<http://www.freedomhouse.org/research/freeworld/2001/countryratings/sanmarino.htm>.

<sup>4</sup> There are six Statutes and they are written in Latin. A description of their content is available at:

aspects of the state and are still in force as they result after the amendments of the *reformationes*. When deciding on a case, judges have to apply, in the following order: the *statutae*; the *reformationes* and the Declaration (see *infra*); local customs and common law.<sup>5</sup>

On 12 July 1974 the *Capitani Reggenti* (the two presidents of the Republic) signed Act no. 59 adopted by the *Consiglio Grande e Generale* (the Parliament) containing the Declaration of the rights of the citizens and the fundamental principles of the juridical order of San Marino (hereinafter “the Declaration”) (*Dichiarazione dei diritti dei cittadini e dei principi fondamentali dell'ordinamento sammarinese*).<sup>6</sup> The Declaration has recently been revised by Act no. 36/2002.

## 2.1 Freedom of expression

### Article 6

The Republic recognises civil and political rights to everybody. In particular, it ensures the freedom of the person, domicile, dwelling and emigration, assembly and association, expression of thoughts, conscience and cult. The secrecy of communications is protected in whatever form they are provided. The law may limit the exercise of these rights only in exceptional cases for serious reasons of public order and interest. Art, science and education are free. The law guarantees citizens the right to free education without any charge.

## 3 Legislation<sup>7</sup>

### 3.1 Broadcasting legislation

The Telecommunications Act of 18 March 1988, no. 57 (*Disciplina dei servizi di telecomunicazioni*) and the Broadcasting Act of 27 April 1989 no. 41 (*Istituzione dell'ente di radiodiffusione sammarinese*) govern all the main aspects of broadcasting in San Marino. The broadcasting service is carried out in monopoly by the *Radiotelevisione di San Marino* (San Marino RTV),<sup>8</sup> according to the conditions defined in the concession issued by the Broadcasting Body (*Ente per la radiodiffusione sammarinese*) pursuant to Article 2 of the Broadcasting Act. The channel broadcasts (in Italian) throughout the whole territory of San Marino and the signal can also be received in Italy, around Venezia and Bologna, and in the former Yugoslavia.<sup>9</sup>

### BROADCASTING ACT NO. 41 OF 27 APRIL 1989

#### Article 2

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[http://www.omniway.sm/sanmarinoguide/aboutsanmarino/sanmarinoguide\\_get\\_par.php3?PARAM=29](http://www.omniway.sm/sanmarinoguide/aboutsanmarino/sanmarinoguide_get_par.php3?PARAM=29).

<sup>5</sup> An outline of the main characteristics of the legal system of San Marino is available at: <http://www.diritto.it/articoli/commerciale/arcangeli.html>. For further information on the Statutes, see also: <http://www.filodiritto.com/diritto/pubblico/internazionale/nomrativasanmarino.htm>.

<sup>6</sup> Act no. 59/74, available at: <http://www.consigliograndeegenerale.sm/>.

<sup>7</sup> Legislative Acts of San Marino can be found under the heading “archivio leggi” at: <http://www.consigliograndeegenerale.sm>.

<sup>8</sup> A website is under construction at: <http://www.tradecenter.sm/rtv>.

<sup>9</sup> See:

[http://www.omniway.sm/sanmarinoguide/aboutsanmarino/sanmarinoguide\\_get\\_par.php3?PARAM=6](http://www.omniway.sm/sanmarinoguide/aboutsanmarino/sanmarinoguide_get_par.php3?PARAM=6).

The Broadcasting Body of San Marino is entrusted with:

- a) the exclusive right to carry out an autonomous broadcasting service in radio and television service;
- b) the duty to authorise the concession of the service under lit a) to a company falling under the jurisdiction of San Marino;
- c) the right to take part in the constitution of the mentioned company, with the obligation to ensure that the Company has the technical and financial suitability for a correct and balanced management of the broadcasting service.

Article 13 of the Broadcasting Act defines the main services that have to be ensured by the public service concessionaire (San Marino RTV), including, at lit. b) and c), the promotion of the cultural heritage of the Republic. Due to the fact that there are no (recognised) minority languages to protect, the concessionaire is consequently not obliged to dedicate specific programmes to this purpose.

#### BROADCASTING ACT NO. 41 OF 27 APRIL 1989

##### Article 13

The radio and television broadcasting service has to be carried out by the concessionaire in the most scrupulous observance of the principles of a complete, objective and impartial information, both on internal as on foreign affairs.

The public radio and television broadcasting service has to pursue, within the respect of the principles of public order, the laws of the Republic, the treaties stipulated with other states, international conventions signed by San Marino and in accordance with its traditional neutrality, the following aims:

- a) stimulate the democratic conscience and the active participation of the citizens, as expression of the fundamental rights of freedom, of life and the general growth of the country;
- b) diffuse information and news about the Republic, on events and activities that are developed there, by taking account of the connections with the territory in its geographical context;
- c) promote the knowledge of San Marino in Europe, at international level, by evaluating its identity and historical and cultural heritage;
- d) let San Marino take part in the cultural debate of our days, with particular reference to the education of the young persons, the promotion of human rights and peace among people, the equal dignity of States, environmental protection, international cooperation and solidarity;
- e) incentive an active participation related to European issues so as to provoke a deeper conscience about the idea of Europe;
- f) ensure the diffusion of sport events as an instrument capable of elevating human being, and recreational and amusing areas.

When elections or referenda are scheduled in San Marino, appropriate slots have to be destined to candidate parties in order to let them illustrate their programmes. The broadcasting slots have to be transmitted according to what is established by the Monitoring Commission.

The activities of San Marino RTV are monitored by a specific Monitoring Commission (*Commissione di vigilanza*), composed of seven members nominated by Parliament. It carries out its duties in accordance with Articles 15, 16 and 17 of the Broadcasting Act.

#### BROADCASTING ACT OF 27 APRIL 1989 NO. 41

##### Article 15

The Monitoring Commission has to know the main characters of the radio and television broadcasting palimpsest six months in advance. It has to define and regulate the political slots under art. 13 in order to protect freedom, pluralism and equal dignity of the lists that are candidate at the elections and to define and regulate the slots that have to be reserved to associations and bodies of San Marino in order to let them express their opinions on issues of general interest, provided that they are not in contrast with the aims of the public service and compatible with the programming of the broadcaster.

##### Article 16

The Monitoring Commission has to formulate precise contestations in case of violations of the law by the public concessionaire, evaluate contestations from other subjects and the reasons explained by the concessionaire.

If the Commission finds that the contestation is well founded, it orders the observance of the right to reply. In case of violation of the principles established under art. 13, the Commission has to tell the Board of the Broadcasting Body in order to let it adopt the required measures.

##### Article 17

In case of serious and repeated violations of the concession, the Monitoring Commission may suggest the Board to withdraw the concession, after having heard the Concessionaire.

### 3.2 Transfrontier dimension

With Decree no. 123 of 18 December 1989, the Republic became one of the first countries to ratify the European Convention on Transfrontier Television. Decree no. 50 of 27 April 1990 (*Ratifica dell'Accordo di collaborazione in materia radiotelevisiva fra la Repubblica di San Marino e la Repubblica italiana, firmato a Roma il 23 ottobre 1987*) defines the cooperation between San Marino and Italy through the creation of a common radio and television broadcaster that will be in charge of the distribution of programmes. This broadcasting service was designed to be a monopoly.

#### DECREE NO. 50/90 OF 27 APRIL 1990

##### Article 2

The institutional aim of the Company under Article 1 is the exclusive management of the radio and television broadcasting service in the Republic of San Marino. The Company may carry out activities in the field of production of radio and television

programmes, the organisation of shows and sports events, the development of relations with other operators in these fields, and anything else that might be useful in order to ensure the economical balance and the achievement of the aims of the Company.

The Government of the Republic of San Marino may not promote or encourage in the radio and television broadcasting sector, initiatives, inside or outside the territory, competing with the activities of the Company.

The broadcaster is based in San Marino and transmits on frequencies that will enable it to reach the Italian territory; vice versa, programmes broadcast from Italy are received in San Marino. In consequence, the European Convention on Transfrontier Television applies to these services.

## Serbia and Montenegro – Montenegro

The Constitution of the Republic of Montenegro states that Serbian language of the iekavian dialect will be the official language, with the Cyrillic and Latin alphabets being deemed to be equal. It also states that in municipalities where national minorities and ethnic groups constitute a majority of the population (or a substantial section thereof), their respective languages and alphabets shall be in official use. In broader terms, the Constitution safeguards the right of members of national minorities and ethnic groups to freely use their mother tongue; to be educated in and have access to information in, their mother tongue. A process of media law reform was recently initiated in Montenegro, under the auspices of the Council of Europe and the European Agency for Reconstruction. The main pillars of the resultant new legislative edifice are media and broadcasting laws and a law regulating the activities of the public service broadcaster. Relevant statutory law obliges the Government to provide part of the funding for programming in Albanian and the languages of other national and ethnic groups. At the licensing level, public tenders shall include the declaration and consideration of the section of the proposed programme offer that would be in the languages of minorities. Broadcasters are required by law to observe “linguistic standards”. Public service broadcasters are subject to the additional requirement that they produce and broadcast programmes for all sections of society, including minority ethnic communities. Furthermore, they must produce and broadcast programmes in the native languages of national and ethnic groups in the areas inhabited by them.

### 1 Introduction

#### 1.1 Linguistic topography

Montenegro is a multiethnic state with traditionally good relations between the peoples living in its territory. The only official data on its linguistic topography come from the Republic Statistics Institute. According to the last census in 1991, Montenegro had 615,035 inhabitants,<sup>1</sup> of which 61.86% declared themselves Montenegrins; 9.34%, Serbs; 6.6%, Albanians; 14.56%, Muslims; 0.53%, Roma; 1.01%, Croats and 4.25%, Yugoslavs. All the others make up 0.23%, including Macedonians, Austrians, Bulgarians, Czechs, Greeks, Italians, Jews, Hungarians, Germans, Poles, Romanians, Russians, Ruthenians, Slovaks, Turks, Ukrainians, Wallahs, other, unknown, undecided and those who did not declare their nationality.

These data differ considerably from the current situation on the ground. The number of displaced persons and refugees that have arrived in Montenegro since 1991, as well as the political circumstances in the recent period, considerably changed the demographic picture of the country. According to the records of the Republic Commissariat for Refugees, Montenegro accommodates more than 32,000 displaced persons from Kosovo, of whom 34.7% are Montenegrins; 24.4%, Serbs; 20.0%, Roma; 12.7%, Muslims; 3.7%, Albanians; 3.0%, Egyptians and 1.5%, others. In addition, the Republic Red Cross of Montenegro estimates that 17,000 Roma moved into Montenegro from December 1991 until the end of 2000.

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<sup>1</sup> Statistical Yearbook for 2000 of the Republic Statistics Institute.

## 1.2 Broadcasting

400 media organisations are registered with the Republic Secretariat for Information of the Montenegrin Government. Many of these engage in little if any activity. The brochure issued by the NGO Development Center of Podgorica records 51 print media establishments, 32 radio stations, seven television stations, four press information agencies, 19 branch offices and five institutions and organisations (including the Association of Young Journalists, the Montenegrin Media Institute, UNEM, the Association of the Independent Print Media-Montpress, etc.).<sup>2</sup>

Radio stations broadcasting programmes in Albanian are: *Radio Ulcinj*, founded by the State, broadcasting 10 hours per day, of which 50% is in Albanian and 50% in Serbian; *Radio Bar*, founded by the State, with one hour of programming in Albanian every day; *Radio Mir*, a private radio station broadcasting 24 hours a day, 80% of which is in Albanian; and *Radio Glas Plava*, broadcasting bilingual programmes. *Radio Crne Gore*, the state radio station, also broadcasts news in Albanian.

*TV Crne Gore*, the state television station, broadcasts news in Albanian (a duration of 15 minutes each day) six days a week and a one-hour programme once a week. *TV Boin* has started experimental broadcasting in Albanian, and *TV Mir* also is about to start Albanian programming. Independent radio, *Antena M*, has recently started broadcasting a half-hour programme in Roma every two weeks.

## 2 Constitution

The Constitution of the Republic of Montenegro<sup>3</sup> was adopted on 12 October 1992.

### 2.1 Freedom of expression

Article 34

#### FREEDOM OF MAN

Freedom of belief and conscience shall be guaranteed. Freedom of thought and public expression of opinion, freedom of confession, public or private profession of religion and freedom to express national affiliation, culture and the freedom to use one's own language and alphabet shall be guaranteed. No person shall be obliged to declare his opinion, confession and national affiliation.

Article 35

#### FREEDOM OF PRESS

Freedom of press and of other public information media shall be guaranteed. Citizens shall have the right to express and publish their opinion in the public information media. Publication of newspapers and public dissemination of information by other media shall be accessible to everyone without prior permission, subject to registration with the competent authority. Radio and television broadcasting organisations shall be established in accordance with law.

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<sup>2</sup> Montenegro Media Address Book, Center for Development of Non-Governmental Organizations, available at: <http://www.cmvo.cg.yu>.

<sup>3</sup> Source: Ministry of Information, available at: <http://www.rsi.cg.yu/english/regulativa/ustav.htm>.

Article 37  
CENSORSHIP OF PRESS

Censorship of press and of other forms of public information media shall be prohibited.

DISTRIBUTION OF PRESS

No person shall have the right to prevent distribution of press and dissemination of other information except when the competent court of law shall find that they call for a forcible overthrow of the order established by the Constitution, violation of the territorial integrity of Montenegro and the Federal Republic of Yugoslavia, violation of guaranteed freedoms and rights or incite and foment national, racial or religious hatred and intolerance.

Article 38  
FREEDOM OF SPEECH

Freedom of speech and of public appearance shall be guaranteed.

**2.2 Minority rights**

In the section of the Constitution entitled, “Special Rights of National and Ethnic Groups”, provision is made for members of national and ethnic groups to use and display their national symbols (Article 69); for their educational rights (Article 71). However, for the purposes of this study, the following provisions are of greater potential relevance:

Article 67  
PROTECTION OF IDENTITY

The protection of the national, ethnic, cultural, linguistic and religious identity of the members of national and ethnic groups shall be guaranteed. Protection of rights of members of national and ethnic groups shall be exercised in accordance with the international protection of human and civic right.

Article 68  
LANGUAGE, ALPHABET, EDUCATION AND INFORMATION

Members of national and ethnic groups shall have the right to free use of their mother tongue and alphabet, the right to education and the right to information in their mother tongue.

Article 70  
ASSOCIATION

Members of national and ethnic groups shall have the right to establish educational, cultural and religious associations, with the material assistance of the state.

Article 74  
CONTACTS

Members of the national and ethnic groups shall have the right to establish and maintain free contacts with citizens outside of Montenegro with whom they are having a common national and ethnic origin, cultural and historical heritage and religious beliefs, but without any detriment for Montenegro.

Article 75

#### EXERCISE OF RIGHTS

Special rights granted to members of the national and ethnic groups may not be exercised if they are in contradiction with the Constitution, principles of international law and principle of territorial integrity of Montenegro.

Article 76

#### PROTECTION COUNCIL

Republican Council for Protection of Rights of National and Ethnic Groups shall be established in Montenegro, for purpose of preservation and protection of the national, ethnic, cultural, linguistic and religious identity of national and ethnic groups and for the exercise of their rights prescribed by the Constitution. Republican Council for Protection of Rights of National and Ethnic Groups shall be headed by the President of the Republic. Composition and competencies of the Republican Council shall be prescribed by the Assembly.

### 2.3 (Official/State) language(s)

Article 9

#### LANGUAGE AND ALPHABET

In Montenegro Serbian language of the iekavian dialect will be the official language. Cyrillic and Latin alphabets shall be deemed to be equal. In the municipalities in which the majority or a substantial number of population consists of the national minorities and ethnic groups, their respective languages and alphabets shall be in the official use.

## 3 Legislation

### 3.1 General legislation

The rights of national minorities in Montenegro are governed by the FRY Constitution, the Montenegrin Constitution, and laws of the Republic governing, *inter alia*, schooling and education, the use of national symbols, broadcasting and print media.

### 3.2 Broadcasting legislation

In September 2002, a new legislative package regulating the media and broadcasting sector in Montenegro was adopted. The package, which replaces prior laws regulating relevant matters, comprises a new Media Law, a Broadcasting Law and a Law on Public Broadcasting Services “Radio of Montenegro” and “Television of Montenegro”. The most pertinent sections of each of these new laws are quoted *infra*.

## MEDIA LAW 2002<sup>4</sup>

### Article 3

The Republic shall provide a part of the funding for realisation of the citizens' right to be informed as granted by the Constitution and law, without any discrimination whatsoever and on the basis of programmes important for:

- science and education development;
- development of culture;
- informing people with hearing and sight impairments.

With the aim to realise the rights referred to in the previous paragraph, the Republic shall provide a part of the funding for programming in Albanian and languages of other national and ethnic groups.

The Republican Budget shall prescribe the amount of necessary funds and the manner and conditions of their allotment shall be prescribed by the act of the Republican administrative body competent for the information issues [...].

The activities of "foreign media branch offices and foreign information institutions" are regulated by Articles 36 *et seq.* of the Act.

## BROADCASTING LAW 2002<sup>5</sup>

One of the general aims of the Broadcasting Law is to ensure, *inter alia*, the development of pluralism in broadcasting (Article 3(6)). The licensing procedure envisaged by the Law stipulates that the public tender shall include, *inter alia*, "non-discriminatory, objective and measurable criteria of decision-making (program structure, percentage of the population in the desired service zone that has to be provided with quality reception of radio and/or television programme, presence of programmes in languages of minorities, etc.)" (Article 37(8)).

### Article 56

The broadcasters shall be accountable for the contents of the programme they broadcast in compliance with this Law and the Media Law.

The broadcasters are obliged:

- 1) to inform the public of the events and matters of public importance in the country and abroad in a truthful, complete, impartial and timely manner.
- 2) to contribute to the observance promotion of fundamental human rights and freedoms, democratic values and institutions, pluralism of ideas, to promote the public dialogue culture and observe the linguistic standards.
- 3) to respect the privacy and dignity of citizens.

### Article 95

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<sup>4</sup> The Media Law (No. 01-2808/2) was adopted on 16 September 2002 at the fourth extraordinary session of the Parliament of the Republic of Montenegro and published in the Official Gazette of the Republic of Montenegro, No. 51/02.

<sup>5</sup> The Broadcasting Law (No. 01-2807/2) was adopted on 16 September 2002 at the fourth extraordinary session of the Parliament of the Republic of Montenegro and published in the Official Gazette of the Republic of Montenegro, No. 51/02.

In order to realize public interest in the field of information and broadcasting, public broadcasting services shall:

[...]

3) produce and broadcast programs intended for all segments of the society, without any discrimination, especially taking into account specific social groups such as children and youth, minority ethnic communities, the disabled, the socially and medically challenged, etc.;

4) promote the culture of public communication and linguistic standards;

5) produce and broadcast the programmes expressing the cultural identity of nations, nationalities and ethnic groups;

6) produce and broadcast programmes in native languages of national and ethnic groups in the areas inhabited by them;

[...]

#### LAW ON PUBLIC BROADCASTING SERVICES “RADIO OF MONTENEGRO” AND “TELEVISION OF MONTENEGRO” 2002<sup>6</sup>

##### Article 7

In their programmes, RTCG<sup>7</sup> shall satisfy public interests both on the national and local level and make sure that news, cultural, educational, sports and entertainment programmes are represented equally.

With the aim to achieve common interest in the field of information, RTCG shall observe the obligations prescribed by this Law, Media Law and Broadcasting Law.

RTCG shall independently, in compliance with law, decide upon the contents of its programmes, time of their broadcasting and manner of transmission.

[...]

##### Article 8

RTCG shall respect professional standards and programme-related rules adopted by the RTCG Council and it shall:

1) Keep the public truthfully, completely, impartially and timely informed about events and issues of public interest both in the country and abroad;

2) Contribute to the observance and promotion of basic human rights and freedoms, democratic values and institutions, pluralism of ideas, improve culture of public dialogue and respect linguistic standards;

3) Respect privacy and dignity of citizens,

## 4 Current developments

The objective of recent legislative reforms in media law in Montenegro was the establishment of a legal framework, in accordance with Article 10 of the European Convention on Human

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<sup>6</sup> The Law on Public Broadcasting Services “Radio of Montenegro” and “Television of Montenegro” (No. 01-2806/2) was adopted on 16 September 2002 at the fourth extraordinary session of the Parliament of the Republic of Montenegro and published in the Official Gazette of the Republic of Montenegro, No. 51/02.

<sup>7</sup> Note that Article 2 of this Law refers to the Public Enterprise “Radio and Television of Montenegro” as RTCG.

Rights, that will assist in the implementation of European standards in this area. The Joint Initiative of the European Agency for Reconstruction<sup>8</sup> and the Council of Europe to adapt the legal framework in the media field in Montenegro (“The Joint Initiative for Media Reform in Montenegro”) was launched in August 2001.<sup>9</sup> The Secretariat for Information of the Montenegrin Government formed a Working Group, consisting of representatives of authorities, state and independent media and NGOs.<sup>10</sup> The package of laws prepared by the Working Group is discussed *supra*.

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<sup>8</sup> The European Agency for Reconstruction is responsible for the management of the main EU assistance programmes in the Federal Republic of Yugoslavia (Republic of Serbia, Kosovo, Republic of Montenegro) and the former Yugoslav Republic of Macedonia. See further: <http://www.ear.eu.int>.

<sup>9</sup> 14 August 2001, see further: <http://www.rsi.cg.yu/english/aktivnosti/ji-montenegro.htm>.

<sup>10</sup> See further: <http://www.rsi.cg.yu>.

## Serbia and Montenegro - Serbia

According to the Constitution of the Republic of Serbia, the Serbo-Croatian language and the Cyrillic alphabet shall be officially used in the country, with the Latinic alphabet being officially used in the manner prescribed by law. In regions densely populated by national minorities, their own languages and alphabets shall be officially used as well, again as prescribed by law. Broadcasting law in Serbia is in a rather inchoate state at the moment: pieces of draft legislation on telecommunications, public information and broadcasting are all under preparation. Apart from proposing ethnic minority representation on the National Broadcasting Council, the draft Broadcasting Act contains provisions which would promote the practice of broadcasting in the languages of national or ethnic minorities, *inter alia*, through public service broadcasting. This would complement already-existing practices of non-legislative, affirmative measures supporting minority-language broadcasting. Recently-enacted legislation on the rights and freedoms of ethnic minorities establishes mechanisms for the protection of special rights for minorities in the realms of education, language, information and culture. This legislation also safeguards the right of minorities to be informed in their native languages and to use their native languages in the broadcast media. It also sets out the right of members of national minorities to establish and maintain media outlets in their native languages. In addition, a number of obligations are placed on the State by this legislation: it must ensure, via the offices of public service broadcasters, that news, cultural and educational programmes are provided in the languages of ethnic minorities. The State “may” also establish special radio and television stations for the purpose of broadcasting in minority languages.

### 1 Introduction

#### 1.1 Linguistic topography

Serbia has a high percentage of minorities (around 20%, excluding Kosovo) as well as a large number of minorities (more than 25). The last official Census was in 1991<sup>1</sup> and a new one is currently in progress,<sup>2</sup> so precise statistics on the number of minorities are not available. The demise of the former Yugoslavia and wars in Slovenia, Croatia, Bosnia and Kosovo have resulted in a huge migration process. Although sources differ, a rough estimate would be that more than 500,000 people have emigrated from Serbia since 1991, including Croats, Hungarians, Slovaks and Serbs. Some 850,000 refugees, including Roma people, Gorans and Turks emigrated to Serbia from Croatia, Bosnia and Kosovo.

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<sup>1</sup> According to the Census of 1991, Serbia (excluding Kosovo) had a population of 7,822,795 inhabitants: 6,524,405 Serbs; 118,934 Montenegrins; 320,168 Yugoslavs; 26,830 Bulgarians; 21,434 Bunjevci People; 21,434 Vlasians; 343,942 Hungarians; 46,046 Macedonians; 346,411 Muslims (as an ethnic group); 146,237 Roma; 42,331 Romanians; 18,037 Ruthenians; 66,798 Slovaks; 900 Turks and 105,406 Croats (the rest of the people had refused to declare a nationality or belong to very small nationalities). Albanians refused to take part in the Census, so their number was estimated based on the Census of 1981 and demographic data from the ground. Source: Annual Statistic Report, Federal Institute for Statistic, Belgrade, 1988, p. 68.

<sup>2</sup> According to one of the existing estimates, made by Vigor Majic, Petnica Science Center, Valjevo, in 2000, Serbia had 7.5 million inhabitants: 6 million Serbs; 380,000 Hungarians; 160,000 Muslims (as an ethnic group); 120,000 Croatians; 110,000 Montenegrins; 80,000 Albanians; 70,000 Slovaks; 55,000 Romanians; 50,000 Macedonians; 30,000 Bulgarians; 550,000 non-Serbs and not declared and 30,000 others. According to the same source, the number of Roma people is very unclear, varying (depending on the source) from under 100,000 to over 1 million.

In some communities, there is disagreement about definition of nationality. For example, some members of the Croatian and “Bunjevac” communities argue that both communities are part of the Croatian nation, while others claim that they are two nations. The same disagreement arises in the Ukrainian and Russian communities.

The majority in Serbia speaks Serbian. Before the demise of the former Yugoslavia, the name of the majority’s language was Serbo-Croatian or Croat-Serbian, and it was spoken in Serbia, Croatia, Bosnia and Montenegro. After 1991, the language was named Serbian in Serbia, Croatian in Croatia, Bosnian in Bosnia and, today, supporters of independent Montenegro speak of a Montenegrin language. According to the recognised linguistic expert Pavle Ivić,<sup>3</sup> “the basic fact is that [Serbo-Croatian] is one language with variants considering linguistic structure and substance”, but, on the other hand, “Serbian and Croatian are two [separate but] related languages when considering their socio-linguistic aspects”.<sup>4</sup>

Another language that needs additional explanation is that spoken by the Roma people. The share of original words from the ancient Roma language in the modern spoken language is about 40-60%. Other words come from languages of the local communities. Thus, the language spoken by Roma from the south of Serbia is different from the language spoken by Roma from the Vojvodina Province. Often, Roma people from different parts of the country use Serbian for communication.

## 1.2 Broadcasting

There are more than 1,000 radio and television stations on the air in Serbia, although this number is highly unstable as new stations are frequently added and existing ones shut down mainly because of financial troubles. About 50 radio and television stations broadcast in the language of some minority. In most cases, those are stations that have Serbian as the main language and the language of the minority as the second language. Some of these bilingual or multilingual media outlets are public and some are private. On the other hand, in the parts of the country where Serbian ethnic minorities are de facto majority in the area, the Serbian language is less used than others (eg. the Slovak language in Backi Petrovec). Here we provide a summary of broadcasting in minority languages in Serbia.

### Albanian

- Radio Presovo, Medvedja, Bujanovac (radio stations owned by the municipality of Presovo, Medvedja and Bujanovac, estimated potential audience: 30,000):
  - Radio programme in Albanian (together with a programme in Serbian and Roma)

### Bosnian

It is sometimes very difficult to tell which language is on the air where the broadcast is in ex-Serbo-Croatian, especially in communities where the language of local population (irrespective of nationality) is the same or almost the same.<sup>5</sup> For example, the area of

<sup>3</sup> Ranko Bugarski, “Lica jezika” (“Faces of Language”), XXvek, Belgrade, 2001, p. 14.

<sup>4</sup> Trying to attract audience from Serbia, Croatia and Bosnia at the same time, journalists from Free Europe had to take care not to insult anybody by calling the language Serbian, Croatian, Bosnian or Montenegrin. They solved the problem by using the phrase “South-Slavic languages”.

<sup>5</sup> The only way to ascertain the broadcast language in communities where the language of the local population (irrespective of nationality) is the same is when the broadcaster announces it, as is the case with Croatian in *TV K 23* and *Radio Subotica*.

Sandzak is inhabited mostly by Muslims, and it is difficult to judge if the broadcast language is Serbian or Bosnian. One could say that radio and television stations in region of Sandzak (RTV Jedinstvo, San, etc.) broadcast in a minority language to the extent that the programmes follow the cultural codes of the local population.

### **Bulgarian**

- Radio Nis (part of RTS, estimated potential audience: 500,000), Nis:
  - Daily news programme up to 20 minutes.
- Radio and TV Caribrod (station owned by the municipality of Dimitrovgrad, estimated potential audience: 20,000), Dimitrovgrad:
  - Short newscast of up to 4 minutes daily, but broadcast without precise programme scheduling and structure. Poor quality.

### **Croatian**

- Radio Subotica (station owned by the municipality of Subotica and RTS, estimated potential audience: 600,000), Subotica:
  - Two hours of programmes daily, including news.
- TV K 23<sup>6</sup> (part of RTS,<sup>7</sup> estimated potential audience: 2,000,000), Novi Sad:
  - 30-minute-long magazine (current affairs) named “Divani” (“Talks”) produced by Z Video Group (independent production) from Subotica, twice per month.

### **Hungarian**

- Radio 021 (privately-owned station, second channel, estimated potential audience: 700,000), Novi Sad:
  - Daily news (broadcast in mixed edition with other languages including Serbian)
  - Weekly news programme up to 60 minutes.
  - Weekly programme that surveys stories in the print media in Hungary.
  - Daily re-broadcast of the BBC World Service in Hungarian.
- Radio Impuls (privately-owned station, estimated potential audience: 150,000), Vrsac:
  - A few minutes of daily news.
- Radio Novi Sad (part of RTS, estimated potential audience: 2,000,000), Novi Sad:
  - 24 hours of broadcasting on Channel 2.
- Radio Sombor (station owned by the municipality of Sombor, estimated potential audience: 300,000), Sombor:
  - 60 minutes of programming daily, including news.

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<sup>6</sup> TV K 23 is the television station with the largest number of minutes in minority languages. On the other hand, according to SMMRI TV audience research from November 2001, the ratings of those programmes are fairly low – the best results were those of the daily news programme “Hirado” (News), whose rating of 1.82%, or 30,030 households, covers only around 10% of the Hungarian population. The second-best result was for the programme “Spektrum” in Slovakian, with a rating of 0.63%, or 10,435 households, which covers about 14% of the Slovakian population. The low ratings may be the consequence of bad scheduling and poor equipment, finances and human resources, which are characteristic of most of the electronic media in Serbia.

<sup>7</sup> Until the 1990s, *Radio TV Novi Sad* was an independent broadcaster founded by the Parliament of the Province of Vojvodina, with equal status as a member of *Yugoslavian Radio TV* along with Belgrade, Zagreb, Sarajevo, Titograd, Skoplje, Ljubljana and Pristina. It was then incorporated into *Radio TV Serbia* by the previous regime. According to the new Broadcasting Law, RTS will be divided into two parts and divide between *TV Belgrade* and *TV Novi Sad* in the near future.

- Radio Subotica (station owned by the municipality of Subotica and RTS, estimated potential audience 600,000), Subotica:
  - 12 hours of programming daily.
- TV Novi Sad (part of RTS, estimated potential audience: 2,000,000), Novi Sad:
  - 25,000 minutes of programming per year, including several editions of daily news.
- TV Pancevo (station owned by the municipality of Pancevo, estimated potential audience: 1,000,000), Pancevo:
  - 30-minute-long magazine, twice per month.
- Also, a lot of small local Radio stations in small municipalities (Senta, Temerin, etc.) broadcast a few hours of programming in Hungarian daily.

### **Romanian**

- Radio 021 (privately-owned station, second channel, estimated potential audience: 700,000), Novi Sad:
  - Daily news (broadcast in mixed edition with other languages including Serbian),
  - Weekly programme with surveys of stories in the print media in Romania,
  - Daily re-broadcast of the BBC World Service in Romanian.
- Radio Impuls (privately-owned station, estimated potential audience: 150,000), Vrsac:
  - A few minutes of daily news.
- Radio Novi Sad (part of RTS, estimated potential audience: 2,000,000), Novi Sad:
  - 6 hours of programming daily, including several editions of daily news.
- TV Novi Sad (part of RTS, estimated potential audience: 2,000,000), Novi Sad:
  - 9,000 minutes of programming per year, including daily news.

### **Romany**

- Radio 021 (privately-owned station, second channel, estimated potential audience: 700,000), Novi Sad:
  - Weekly news programme up to 60 minutes,
  - Daily news (broadcast in mixed edition with other languages including Serbian),
- Radio Novi Sad (part of RTS, estimated potential audience: 2,000,000), Novi Sad:
  - 2 hours of broadcasting daily, mainly news and current affairs but also cultural and social topics.
- RTV Nisava (privately-owned radio and television station, estimated potential audience: 300,000), Nis:
  - 24 hours of radio programming,
  - Television programme - experimental.
- TV Belle Amie (privately-owned station, estimated potential audience: up to 1,000,000), Nis:
  - One-hour weekly magazine produced by NGO.
- TV Grk (privately-owned station, potential audience: around 100,000), Prokuplje:
  - Daily news programme "Foro" ("City").
- TV Novi Sad (part of RTS, estimated potential audience: 2,000,000), Novi Sad:
  - One hour of programming per week.
- Newly founded Roma TV in Zenum is currently preparing to broadcast only in the Roma language.

### **Russianian**

- Radio 021 (privately owned station, second channel, estimated potential audience 700,000 people), Novi Sad:
  - Daily news (broadcast in mixed edition with other languages including Serbian).
- Radio Novi Sad (part of RTS, estimated potential audience: 2,000,000), Novi Sad:
  - 4 hours of programming daily, including several editions of daily news.
- TV Novi Sad (part of RTS, estimated potential audience: 2,000,000), Novi Sad:
  - 9,000 minutes of programming per year, including daily news.

### **Slovakian**

- Radio 021 (privately owned station, second channel, estimated potential audience: 700,000), Novi Sad:
  - Daily news (broadcast in mixed edition with other languages, including Serbian).
  - Weekly programme with surveys of stories in the print media in Slovakia. Daily re-broadcast of the BBC World Service in Slovakian.
- Radio Novi Sad (part of RTS, estimated potential audience 2,000,000), Novi Sad:
  - 6 hours of programming daily, including several editions of daily news.
- Radio Stara Pazova (station owned by the municipality of Stara Pazova, estimated potential audience: 50,000), Stara Pazova:
  - 12 hours of broadcasting including news, current affairs, culture and art, coverage of local stories.
- RTV Kovacica (station owned by the municipality of Kovacica, estimated potential audience: 30,000), Kovacica:
  - 18 hours of television programming, experimental.
  - 10-12 hours of radio programming per day.
- TV Novi Sad (part of RTS, estimated potential audience: 2,000,000), Novi Sad:
  - 9,000 minutes of programming per year, including daily news.
- TV Petrovec (station owned by a local farmers' association, estimated potential audience: 250,000), Backi Petrovec:
  - Between two and three hours of original programming, including news, current affairs, culture and art, coverage of local stories.
  - Re-broadcasting of programmes of TV Global, Slovakia.
- TV Pancevo (station owned by the municipality of Pancevo, estimated potential audience: 1,000,000), Pancevo:
  - 30-minute-long magazine, twice per month.

### **Ukrainian**

- Radio Novi Sad (part of RTS, estimated potential audience: 2,000,000), Novi Sad:
  - 90 minutes of programming per week.
- TV Novi Sad (part of RTS, estimated potential audience: 2,000,000), Novi Sad:
  - One hour of programming per month.

### **Expected New Media Outlets in the Languages of Ethnic Minorities:**

- *Maxi Media, Novi Sad*, (private news agency, experimental at the moment, expected to be running on a permanent basis from 15 April 2002).

- News from ethnic minority communities from Vojvodina Province is translated into Serbian, Hungarian, Romanian, Slovakian and Russian.<sup>8</sup>
- NTV Negotin (privately-owned television station), Negotin:
  - News programme in Vlasi, and also film subtitles in Vlasi. Still in preparation.
- Radio Novi Sad (part of RTS), Novi Sad:
  - Radio programme in Croatian
- Radio Subotica (station owned by the municipality of Subotica and RTS):
  - 24 hours of programming in Hungarian starting 1 May 2002.
- TV Apolo (television station owned by the municipality of Novi Sad):
  - Bilingual children's programme. Still in preparation.
- TV Grk (privately owned station), Prokuplje:
  - Weekly magazine and children's programme about human rights (depending on finances) in Roma.
- TV Kikinda, (regional television station in the process of being established, mixed ownership), Kikinda,
  - 30% of whole programme in Hungarian.
- TV Novi Sad (part of RTS), Novi Sad:
  - television programme in German.
- TV Pirot (TV station owned by the municipality of Pirot):
  - Weekly magazine in Bulgarian, up to 20 minutes.
- TV Presovo, Bujanovac (television stations owned by the municipality of Presovo, Medvedja and Bujanovac):
  - television programme in Albanian and in Roma (experimental).
- TV Subotica (television station owned by the municipality of Subotica):
  - 2 hours of programming in Hungarian.

## 2 Constitution<sup>9</sup>

The Republic of Serbia is a country in transition, which means that most laws are “under construction”, even the Constitution. The “Charter On the Future Relations Between Serbia and Montenegro”, which may become a draft for a new Constitution, is currently on the agenda of Federal Parliament and the Parliaments of both Republics. Meanwhile, the effective Federal Constitution of the Federal Republic Yugoslavia is the Constitution of 1992 (see Appendix).

### 2.1 Freedom of expression

CONSTITUTION OF THE REPUBLIC OF SERBIA OF 1990<sup>10</sup>

Article 45

The freedom of conscience, thought and public expression of opinion shall be guaranteed.

<sup>8</sup> Available at: <http://www.maximedia.co.yu>.

<sup>9</sup> Gordana Radic Popovic, Legal Adviser to Parliament of Province of Vojvodina, provided all the information on the Constitutions and the Minorities Rights Protection Act for this report.

<sup>10</sup> Available at: <http://www.serbia-info.com/facts/constitution.html>.

## 2.2 Broadcasting

CONSTITUTION OF THE REPUBLIC OF SERBIA OF 1990

Article 46

The freedom of press and other public information media shall be guaranteed.

Citizens shall have the right to express and make public their opinions in the public information media

Publication of newspapers and dissemination of information by other means shall be accessible to everyone without seeking permission, subject to registration with the competent agency.

Radio and television broadcasting organisations shall be established in accordance with law.

[...]

The censorship of press and other public information media shall be prohibited. No one may obstruct the distribution of the press and dissemination of other information, except when the competent court of law finds by its decision that they call for the forcible overthrow of the order established by the Constitution, violation of the territorial integrity and independence of the Republic of Serbia, violation of guaranteed freedoms and rights of man and citizen, or incite and foment national, racial or religious intolerance and hatred.

The public information media which are financed from public funds shall be bound to provide the general public with timely and impartial information.

## 2.3 (Official/State) language(s)

The Federal Constitution states that the official language of the Federation is Serbian, but that in the parts of country with a significant percentage of minorities, languages of the minorities are also official languages. These are to be regulated by special Acts, such as the Serbian Language and Alphabet Regulation Act of 1991, and also by Acts that regulate the use of languages on the local level.

CONSTITUTION OF THE REPUBLIC OF SERBIA OF 1990

Article 8

In the Republic of Serbia the Serbo-Croatian language and the Cyrillic alphabet shall be officially used, while the Latinic alphabet shall be officially used in the manner established by law.

In the regions of the Republic of Serbia inhabited by national minorities, their own languages and alphabets shall be officially used as well, in the manner established by law.

## 2.4 The Autonomous Province of Vojvodina

The Autonomous Province of Vojvodina is part of Serbia, but it was also a constitutive part of former Socialist Federated Republics of Yugoslavia (SFRY), according to Constitution of 1974. After the demise of the former SFRY, Vojvodina retained formal autonomy, but most legal powers were taken from the Parliament of Vojvodina and given to the Parliament of Serbia. In January 2002, the Parliament of Serbia returned some powers (including

information policy in the Province) to the Parliament of Vojvodina. The Parliament of Vojvodina is currently drafting a Constitutive Act for the Province, which should provide for a great improvement in relations between the majority and minorities (including in broadcasting).

### 3 Legislation

#### 3.1 General legislation affecting minorities and their linguistic rights

##### PROTECTION OF THE RIGHTS AND FREEDOMS OF ETHNIC MINORITIES ACT, 2002

On 26 February 2002, Vojislav Kostunica, President of FRY, proclaimed the Protection of the Rights and Freedoms of Ethnic Minorities Act.<sup>11</sup> This Act implements the individual and collective rights that members of ethnic minority groups are guaranteed under the FRY Constitution and international agreements. It creates mechanisms that establish and protect the special rights of ethnic minorities in education, language use, information and culture (Article 1). The Act also allows for new Acts on the republican or provincial level that could further define the mechanisms for the protection of minority rights (Article 1).

The Act prohibits discrimination (Article 3), and guarantees freedom from ethnic appropriation, freedom of ethnic expression (Article 5), and freedom to use one's native language in private and official circumstances (Article 10). It also provides a right to information.

##### Article 17

Members of ethnic minorities have right to be informed in their native language, including rights of free expressions [and] ... exchange of information through printed and other media .... The state will provide news, culture and education programs in the language of ethnic minorities through the broadcasting of public broadcasters ... and the state may establish special radio and TV stations that would broadcast in the language of ethnic minorities .... Members of ethnic minorities groups have the right to establish and maintain media in their native language.

#### 3.2 Broadcasting legislation

As for broadcasting legislation, three new Acts have recently being undergoing development in the Republic of Serbia: the Telecommunication Act, the Public Information Act and the Broadcasting Act. The Government of the Republic of Serbia adopted the Broadcasting Act in July 2002.<sup>12</sup>

The Broadcasting Act contains several provisions that affect ethnic minorities. First, ethnic minorities have the right to propose members of the National Broadcasting Council (Article 23). They also get special treatment in the sections that regulate broadcasting in a language of one's own (Article 72); broadcasters' own production (Article 73) and broadcasting in public service (Article 78). Space for privileged "non-profit" stations is provided for by Article 95; a provision of which minorities could avail in order to further their language interests through

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<sup>11</sup> "Sluzbeni list SRJ", Belgrade, 27 February, 2002.

<sup>12</sup> Published in the Official State Newspaper, *Sluzbeni list*, on 19 July 2002. See further: <http://www.serbia.sr.gov.yu/news/2002-07/18/325244.html>.

broadcasting. The Broadcasting Act is consistent with the spirit of the Protection of the Rights and Freedoms of Ethnic Minorities Act.

EXTRACTS FROM THE (DRAFT) BROADCASTING ACT:<sup>13</sup>

#### Article 72 - Broadcasting in a Language of One's Own

A broadcaster shall produce and broadcast programs in the Serbian language or provide that the programs in foreign languages are translated into Serbian.

The obligation under paragraph 1 of this Article shall not apply to broadcasters producing and airing programs for ethnic minorities or to the parts of public broadcasting services' programs that satisfy the need of ethnic minorities to be informed in their own languages.

The obligation under paragraph 1 of this Article shall also not apply to broadcasting of foreign music programs, except in the cases of TV broadcasts of musicals, operas, operettas, etc.

Exceptionally, the SBC may permit broadcasters to air programs in other languages as well.

#### Article 73 – Broadcasters' Own Production

Broadcasters shall see to it that, out of total annual broadcasting time, programs in Serbian take 50 percent at least, out of which 50 percent at least shall be programs from their own production.

The broadcasters that produce and air programs for ethnic minorities shall see to it that, out of total annual broadcasting time in the relevant language, programs from their own production take 50 percent at least.

The total annual broadcasting time does not include reruns, live broadcasts of sports events, games, adverts and teleshopping, as well as news programs unless the latter makes a part of a broadcaster's own production.

Broadcasters' own production implies programs or shows with the share of original audio or video material and/or authorial contents of over 50 percent in the case of a TV program or 20 percent in the case of a radio program.

Broadcasters' own production also implies co-production.

#### Article 78

With a view to satisfying the general public interest in the sphere of broadcasting as established by this Act, special programming obligations of the broadcasters under Article 68 of this Act shall be to:

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<sup>13</sup> The seventh draft of the Broadcasting Act (which does not totally correspond to the text ultimately adopted) is available at: <http://www.yumediacentar.com/english/dokumenti/tranzicija/broadcast190901.asp>.

- 1) Ensure that programs to be produced and broadcast, particularly information programs, are protected against any influence on the part of authorities, political organizations and centers of economic power;
- 2) Produce and broadcast programs focused on all segments of society, without any discrimination, particularly mindful of specific social groups such as children and minors, ethnic minority communities, the disabled, the needy, the sick and the like;
- 3) Adhere to linguistic and spoken language standards of majority population and, in appropriate proportion, of ethnic minorities or ethnic groups in the areas covered by their programs;
- 4) Ensure that citizens' needs for programs reflecting cultural identities of both nations and ethnic minorities, i.e. ethnic groups are met by enabling them to watch/listen to specific programs in the areas they inhabit in their mother tongues and lettering;
- 5) Secure appropriate time slots for the programs dealing with activities of citizens' associations, non-governmental organizations and religious communities in the program coverage area;
- 6) At the time of election campaigns, secure free of charge and balanced on-air promotion of political parties, coalitions and candidates with confirmed lists for the federal, republic, provincial or local elections. They shall not broadcast a paid election campaign oriented marketing and may, pursuant to their by-laws, deny to broadcast programs or spots that are not in the service of an election campaign;
- 7) Make certain that their annual plans include airing of programs by independent production groups, selected at a public tender. The latter shall imply signing of a written contract with the selected independent producers under regular market conditions;
- 8) Upon recommendation of the SBC, enable the use of the teletext in the production of their own or that of third parties;
- 9) Provide that modern technological standards are applied and developed in the process or program production and broadcasting, and make and duly implement the plans of transition to new digital technologies;
- 10) Mutually cooperate and exchange programs of interest to citizens of Serbia.

#### Article 95 Radio and/or TV Stations of the Civil Sector<sup>14</sup>

Radio and TV stations of the civic sector shall be those that meet the specific interests of specific social groups or organizations of citizens.

The stations under para 1 of this Article may be founded by non-profit organizations of the civil society (NGOs and citizens' associations).

Programs broadcast by radio and/or TV stations of the civil sector shall reflect the domain of activity of the NGO or the citizens' association that have founded the station.

Radio and/or TV stations of the civil sector may be established to cover just a local community.

Radio and/or TV stations of the civil sector shall observe the same provisions applied to the Public Broadcasting Service with respect to special obligations in program production.

A radio and/or TV station of the civil sector shall be granted a broadcasting concession on the basis of a public tender called for a target service zone. A radio

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<sup>14</sup> This corresponds to Article 94 in the seventh draft (text quoted here).

and/or TV station of the civil sector shall not be charged a broadcasting concession fee.

Operations of the above-mentioned stations may be financed from donations, private contributions, sponsorships and other sources of income, pursuant to the law regulating establishment and activities of citizens' associations and NGOs. Provisions of this Act referring to public broadcasting service shall apply to financing from sponsorships and advertising.

[...]

It should also be mentioned that Article 96 of the Broadcasting Act requires the privatisation of local stations founded by a municipality, regional stations founded by two or more municipalities, regional stations founded by city councils within four years of the date of proclamation of the Act.<sup>15</sup>

#### **4 Application of legislation and other measures affecting language**

Several non-legislative affirmative measures exist to promote broadcasting in minority languages. These include: the Federal Ministry for Minorities' continual support for broadcasting in languages of minorities; the Ministry for Minorities of the Province of Vojvodina's announcement in February 2002 of a tender for applications for projects that will improve the cultural life of minorities, including in broadcasting; the activities of a large number of foreign and domestic non-governmental organisations; the Novi Sad School of Journalism's seminars and training in minority reporting; and an international festival of television programmes produced by ethnic minority television departments announced in Novi Sad for November 2002 (depending on financing).

No prohibitive measures relating to minorities' access to broadcasting in their own languages have been recorded.<sup>16</sup> Production and broadcasting in minority languages suffer the same problems as production and broadcasting in Serbian—a lack of human resources, finances and equipment. Recent closures due to lack of funds in media were, for example, the weekly edition of the news magazine “Zurnal” in Bulgarian, RTS-Nis, and the Romanian Department in Radio Vrsac. The Serbian Government cannot find finances to cover all the needs of any media, and foreign donors often finance programmes. After a grant expires, production or broadcasting usually stops. For example, this is what happened to the programme “Multigrad” (“Multi-Town”), produced by Urbans Production Group in two languages.

#### **5 Current developments**

A Serbian Draft Law on Public Information which is currently under consideration may, if adopted, be of relevance for present purposes. In its present form, the draft would require the

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<sup>15</sup> Article 96 of the final text of the Act corresponds to Article 95 of the seventh draft of the legislation - the sentence about privatisation is a new one – an amended proposal by ANEM (Association of Independent Electronic Media) and accepted by Parliament.

<sup>16</sup> There is one situation that could be regarded as an incident, but is more likely a result of bureaucratic slack. *NTV Nis* (a station owned by the municipality of Nis) used to broadcast a weekly magazine about Roma produced by the NGO Froli, but the programme was cancelled some ten months ago. The new manager of the station cancelled the programme temporarily, requesting an official statement about public interest in the “Froli” magazine and the financing to cover its expenses. Froli has asked the Municipality Council of Nis for the statement and the finances, but the municipality has not yet responded.

Republican administration *inter alia* to provide finances for public services in the languages of ethnic minorities.

## Kosovo

The United Nations Interim Administration Mission in Kosovo (UNMIK) and the OSCE have recently presided over the reconstruction of the constitutional framework of Kosovo in a manner that is intended to be both sensitive and responsive to the needs of its numerous and diverse ethnic communities. By way of corollary to this State-building exercise, UNMIK and the OSCE have also overseen the preparations for the establishment of a new regulatory regime for broadcasting. This has, *inter alia*, entailed the institution of a Temporary Media Commissioner (TMC) with licensing and other regulatory responsibilities. The primary task of the TMC is to develop and promote independent and professional media in Kosovo, pending the establishment of an Interim Media Commission. The award of broadcasting licences in Kosovo is conditional on the willingness of applicants to abide by the Code of Conduct for the Broadcast Media, which is modelled on international human rights provisions. The Code requires broadcasters, *inter alia*, not to prohibit or censor expression on the grounds that it is in a particular language, especially the language of an ethnic minority.

The regulatory regime for broadcasting remains fledgling and does not yet include extensive provisions catering for minority-language broadcasting. However, the Constitutional Framework guarantees all communities in Kosovo access to, and representation in, public broadcast media, as well as programming in relevant languages. Furthermore, the national public service broadcaster is obliged by its constitutive regulation to provide primetime news coverage, of which not less than 15% must be in the languages of minority communities within Kosovo. It must also give voice to all communities by, among other things, establishing a programming services office to support these communities and dedicating to them not less than 15% of RTK's television and radio programming, including primetime news coverage. By and large, broadcasting entities in Kosovo remain at the mercy of the vagaries of the prevailing economic and political climate.

## 1 Introduction

### 1.1 Linguistic topography

As of this writing, there is no exact information available regarding the ethnic breakdown of the population of Kosovo. The latest official Census was carried out in 1991.<sup>1</sup> However, Albanians—the majority of the population—boycotted that census, so their numbers were estimated from demographic statistics. According to the 1991 Census, 79.98% of Kosovo residents were Albanian; 10.75%, Serbian (Serbs and Montenegrins); 0.52%, Turkish; 2.29%, Roma; 3.32%, Bosnian, and 1.16%, others. The 1981 Census, conducted with Albanian participation, found the population to be: 77.5% Albanian; 13.2% Serb; 3.7% Bosnian; 2.2% Roma; 1.7% Montenegrin; 0.8% Turkish and 1.1% others.<sup>2</sup> This census was also widely considered inaccurate. According to the Albanians dealing with statistics, the population in Kosovo in 1998 was about 90% Albanian; 7% Serb and 3% others.<sup>3</sup> In 1999, the

<sup>1</sup> Source: FRY Institute of Statistics, see: <http://www.szs.sv.gov.yu>.

<sup>2</sup> See *Kosovo Report*, Independent International Commission on Kosovo, October 2000, p. 319, Annex 2:

Kosovo – Facts and Figures, available at <http://www.kosovocommission.org> and at <http://www.sok-kosovo.org>.

<sup>3</sup> *Ibid.*

Organization for Security and Co-operation in Europe (OSCE) conducted a new “census” that registered people older than 16, but not the entire population.<sup>4</sup> No full census has been conducted since the war, and there are still a number of refugees and displaced persons out of the country.

## 1.2 Broadcasting

Kosovar media policy has undergone a near complete reversal from what existed before the conflict and in its immediate aftermath. The United Nations Interim Administration Mission in Kosovo (UNMIK),<sup>5</sup> entrusted with the administration of the province, along with the OSCE, which was entrusted to build democratic institutions, were authorised to establish and implement media policy. They have promulgated regulations and codes of conduct to meet international standards while protecting and promoting freedom of expression.

Today, three province-wide television stations and more than 100 licensed local broadcasters exist in an environment of relatively free and open media. Programming in minority languages such as Serbian, Bosnian, and Turkish is provided by Radio Television Kosovo (RTK—the national public service broadcaster) and through independent broadcast media.<sup>6</sup> RTK was established to create an independent public broadcasting service in the European tradition, produced locally for all the people of Kosovo.<sup>7</sup> RTK is obliged by its constitutive regulation to provide primetime news coverage, of which not less than 15% must be in the languages of minority communities within Kosovo. It must also give voice to all communities by, among other things, establishing a programming services office to support these communities and dedicating to them not less than 15% of RTK’s television and radio programming, including primetime news coverage.

## 2 Constitution

The United Nations Interim Administration Mission in Kosovo, in its first law-creating mission, appointed a Special Representative of the Secretary General (SRSG), who has promulgated more than 130 Regulations in the past three years. UNMIK’s Regulation 1999/24 defines the applicable law in Kosovo and also establishes the direct enforcement of international instruments as part of the legal system of Kosovo. On 15 May 2001, UNMIK promulgated the Regulation on a Constitutional Framework for Provisional Self-Government in Kosovo.<sup>8</sup>

### 2.1 Freedom of expression

The Constitutional Framework contains no explicit mention of freedom of expression. However, the right to freedom of expression can be inferred from provisions incorporating the major international and European human rights instruments (Chapter 3, Section 3.2).

#### Chapter 3 (Human rights)

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<sup>4</sup> This registration was conducted due to the need to hold the first post-conflict elections in Kosovo. See further: <http://www.osce.org/kosovo/elections/>.

<sup>5</sup> See further: <http://www.unmikonline.org>.

<sup>6</sup> See further: The Kosovo Temporary Media Commissioner Report 2000-2001, p.12 and Appendix 7, available at: [http://www.osce.org/kosovo/bodies/tmc/pdf/tmc\\_report.PDF](http://www.osce.org/kosovo/bodies/tmc/pdf/tmc_report.PDF).

<sup>7</sup> UNMIK Regulation No. 2001/13.

<sup>8</sup> UNMIK Regulation No. 2001/9, available at: <http://www.un.org/peace/kosovo/pages/regulations/reg01.09.html>.

3.1 All persons in Kosovo shall enjoy, without discrimination on any ground and in full equality, human rights and fundamental freedoms.

3.2 The Provisional Institutions of Self-Government shall observe and ensure internationally recognized human rights and fundamental freedoms, including those rights and freedoms set forth in:

- a) The Universal Declaration on Human Rights;
- b) The European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols;
- c) The International Covenant on Civil and Political Rights and the Protocols thereto;
- d) The Convention on the Elimination of All Forms of Racial Discrimination;
- e) The Convention on the Elimination of All Forms of Discrimination Against Women;
- f) The Convention on the Rights of the Child;
- g) The European Charter for Regional or Minority Languages; and
- h) The Council of Europe's Framework Convention for the Protection of National Minorities.

3.3 The provisions on rights and freedoms set forth in these instruments shall be directly applicable in Kosovo as part of this Constitutional Framework.

## 2.2 Broadcasting

The Constitutional Framework assigns the responsibility for regulating the broadcast media to the Provisional Institutions of Self-Government.

### Chapter 5 (Responsibilities of the Provisional Institutions of Self-Government)

5.4 The Provisional Institutions of Self-Government shall also have the following responsibilities in the field of mass media:

- a) Adopting laws and enforcement mechanisms in accordance with international human rights and freedom of expression standards as contained in Articles 19 and 29 of the Universal Declaration of Human Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols to prevent defamation or hate speech in the Kosovo systems of mass media;
- b) Regulating broadcast media consistent with these international legal constraints and the best European practices through an independent media commission, whose members will be appointed by the Provisional Institutions of Self-Government from nominations submitted by non-governmental and non-political organizations in Kosovo; these members will include both genders and will reflect the ethnic and regional diversity of Kosovo society;
- c) Guaranteeing the editorial independence of the public broadcaster by safeguarding the independence of its Board, whose members will be appointed by the Provisional Institutions of Self-Government from nominations submitted by non-governmental and non-political organizations in Kosovo; these members will include both genders and will reflect the ethnic and regional diversity of Kosovo society; and
- d) Establishing an office or offices of public information to present the Institutions' deliberations and decisions to the international and local media.<sup>9</sup>

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<sup>9</sup> Emphasis added.

The Framework also guarantees all the communities “access to, and representation in, public broadcast media, as well as programming in relevant languages” (Chapter 4, Section 4.4, Paragraph o – see further, *infra*).

## 2.3 Minority rights

The Constitutional Framework provides a mechanism to protect Kosovo’s various “communities”.<sup>10</sup>

### Chapter 4 (Rights of Communities and Their Members)

#### General Provisions

4.1 Communities of inhabitants belonging to the same ethnic or religious or linguistic group (Communities) shall have the rights set forth in this Chapter in order to preserve, protect and express their ethnic, cultural, religious, and linguistic identities.

4.3 The Provisional Institutions of Self-Government shall be guided in their policy and practice by the need to promote coexistence and support reconciliation between Communities and to create appropriate conditions enabling Communities to preserve, protect and develop their identities. The Institutions also shall promote the preservation of Kosovo’s cultural heritage of all Communities without discrimination.

#### Rights of Communities and Their Members

4.4 Communities and their members shall have the right to:

(a) Use their language and alphabets freely, including before the courts, agencies, and other public bodies in Kosovo;

[...]

(c) Enjoy access to information in their own language;

[...]

(e) Enjoy unhindered contacts among themselves and with members of their respective Communities within and outside of Kosovo;

[...]

(g) Establish associations to promote the interests of their Community;

[...]

(i) Provide information in the language and alphabet of their Community, including by establishing and maintaining their own media;

[...]

(k) Promote respect for Community traditions;

[...]

[...]

(o) Be guaranteed access to, and representation in, public broadcast media, as well as programming in relevant languages; and

(p) Finance their activities by collecting voluntary contributions from their members or from organizations outside Kosovo, or by receiving such funding as may be

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<sup>10</sup> In Chapter 9 (Sections 9.1.12 – 9.1.17), the Constitutional Framework foresees the existence of a Committee on Rights and Interests of Communities composed of the representatives of each of Kosovo’s Communities elected to the Assembly. The Committee would be responsible for making recommendations regarding proposed laws, or, on its own initiative, propose laws and such other measures within the responsibilities of the Assembly, as it deems appropriate to address the concerns of Communities.

provided by the Provisional Institutions of Self-Government or by local public authorities, so long as such financing is conducted in a fully transparent manner.<sup>11</sup>

#### Protection of Rights of Communities and Their Members

4.5 The Provisional Institutions of Self-Government shall ensure that all Communities and their members may exercise the rights specified above. The Provisional Institutions also shall ensure fair representation of Communities in employment in public bodies at all levels.

4.6 Based on his direct responsibilities under UNSCR 1244(1999) to protect and promote human rights and to support peace-building activities, the SRSG will retain the authority to intervene as necessary in the exercise of self-government for the purpose of protecting the rights of Communities and their members.

#### **2.4 (Official/State) language(s)**

Chapter 9, entitled 'Provisional Institutions of Self-Government', sets out the approach to the question of language usage as regards the Assembly and the Government.<sup>12</sup>

### **3 Legislation**

Pending the establishment of a regulatory regime for broadcasting, the Special Representative promulgated UNMIK Regulation No. 2000/36 on the licensing and regulation of the broadcast media in Kosovo.<sup>13</sup> This regulation provides for (the institution of) a Temporary Media Commissioner (TMC).<sup>14</sup> The authority and responsibility of the TMC is described in Section 1.1:

The Temporary Media Commissioner is responsible for the development and promotion of an independent and professional media in Kosovo and the implementation of a temporary regulatory regime for all media in Kosovo, pending the establishment of an Interim Media Commission, and shall be independent in the performance of these responsibilities.

The TMC acts as the regulatory agency for the broadcast media and is responsible for ensuring that broadcasters do not broadcast in Kosovo without a broadcast licence issued by the TMC.<sup>15</sup> Applicants for a broadcast licence must agree to abide by the Broadcast Code of Conduct issued by the TMC,<sup>16</sup> which is consistent with sub-section 2.2 of UNMIK Regulation No. 2000/36.

Affirming respect for the principles of the Universal Declaration of Human Rights,<sup>17</sup> the Code of Conduct ensures that broadcasters will meet generally accepted international standards of ethnic, cultural, religious and linguistic respect for all communities in Kosovo.

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<sup>11</sup> Emphasis added.

<sup>12</sup> See, in particular, paras. 9.1.49, 9.1.50 and paras. 9.3.17, 9.3.18, respectively.

<sup>13</sup> 17 June 2000, available at: <http://www.osce.org/kosovo/bodies/tmc/unmikreg.php3?ik=1>.

<sup>14</sup> See generally: <http://www.osce.org/kosovo/bodies/tmc/>.

<sup>15</sup> See further: The Kosovo Temporary Media Commissioner Report 2000-2001, *op. cit.*, Appendices 5 and 6.

<sup>16</sup> Code of Conduct for the Broadcast Media in Kosovo, 8 September 2000, available at:

<http://www.osce.org/kosovo/bodies/tmc/bcoc.php3?lg=e>.

<sup>17</sup> See Articles 2, 5, 6, 10, 19 and 29 of the Universal Declaration of Human Rights.

Section 8 of the Code requires that broadcasters “will not be [sic] prohibit or censor expression on the grounds that it is in a particular language, especially the language of an ethnic minority”.

UNMIK Regulation No. 2000/36 also establishes a Media Appeals Board as an independent body that hears and decides appeals of decisions by the TMC regarding refusal to issue a broadcast licence, the conditions attached to a broadcast licence, or sanctions.

#### **4 Application of legislation and other measures affecting language**

UNMIK’s regulation dealing with media incorporates the direct enforcement of international conventions as part of media policy. Nevertheless, Kosovo still lacks a legal framework and a strategy for the overall development of the media, although the former has begun to take shape. Although media enterprises have sprouted throughout Kosovo, they are all economically and professionally fragile and substantially dependent on either international donors or political parties (the exception is RTK, which is financed by the consolidated budget of Kosovo).

#### **5 Current developments**

The process has begun for the establishment of an Independent Media Commission that will be in charge of both licensing and enforcement of the Code of Conduct.

## Slovakia

The official language of Slovakia is Slovak. Prior to 1999, the use of minority languages in broadcasting (and other spheres) was stringently restricted by Slovakian law. In 1999, the Government enacted a widespread reform. There are still concerns with its implementation, but the policies and formal structure have altered greatly. The legislation introduced in 1999 re-established minority-language rights, but for the purposes of the law, only languages spoken by national minorities that constitute at least 20% of the inhabitants of a given municipality are recognised, thus denying language rights to certain minorities. Current broadcasting legislation includes the requirement that programming should contribute to the support/development of the cultures of national minorities in Slovakia. Broadcasters also have a duty to ensure the use of the state language and the languages of national minorities in accordance with special regulations relating to the broadcasting of programmes and other elements of the programme service. Slovak Radio and Slovak Television are under a special obligation to guarantee broadcasting in the mother tongues of national minorities and ethnic groups residing in Slovakia. A bilateral treaty with Hungary provides for the right of Hungarians living in the Slovak Republic to have access to public mass media on a non-discriminatory basis and also to establish and operate their own media.

### 1 Introduction

#### 1.1 Linguistic topography

The population of Slovakia is about 5,414,937 (July 2001 est.). Of that population, about 85.7% are Slovak; 10.6%, Hungarian; 1.6%, Roma (the 1992 Census figures under-report the Gypsy/Romany community, which is about 500,000); 1.1%, Czech, Moravian, Silesian; 0.6%, Ruthenian and Ukrainian; 0.1%, German; 0.1%, Polish; and 0.2%, other (1996).<sup>1</sup>

#### 1.2 Broadcasting

Slovakia's broadcasting sector has changed considerably since the adoption of the 1993 Broadcasting Law. The introduction of commercial television, in particular, transformed the market completely. In 1996, the first private television station, *Markíza*, began operating. Private radio stations exist in larger numbers and have operated for a longer period of time. The audience share of public television broadcaster *Slovak TV (STV)* shrank from nearly 75% in 1995 to less than 20% by 2000. *Markíza* began to claim 60% of television viewers. Channels from neighbouring countries, in particular the Czech Republic and Hungary, have a sizeable audience. In addition, the foreign media and extensive cable and satellite penetration, with some two-thirds of households connected by 2000, have affected the broadcasting market.

On 4 May 1999, the Slovak Republic submitted a report pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities to the Council of Europe.<sup>2</sup> This Report stated:

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<sup>1</sup> Slovakia, CIA World Factbook 2002.

<sup>2</sup> Report submitted by the Slovak Republic pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities, 4 May 1999, Doc. ACFC/SR(1999)008, available at: [http://www.coe.int/T/e/human\\_rights/Minorities/2.\\_FRAMEWORK\\_CONVENTION\\_\(MONITORING\)/2.\\_Monitoring\\_mechanism/3.\\_State\\_reports/ACFC\\_SR\(1999\)008%20E%20state%20report%20Slovakia.asp#TopOfPage](http://www.coe.int/T/e/human_rights/Minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/3._State_reports/ACFC_SR(1999)008%20E%20state%20report%20Slovakia.asp#TopOfPage).

In Slovakia, public radio and television provide broadcasts in languages of national minorities. At present, Slovak Radio and Slovak Television broadcast in Hungarian, Ukrainian, Ruthenian, German and Romany. On the territory of the SR, it is also possible to receive radio and television signals from a number of television and radio stations (both public and private) from neighbouring countries.<sup>3</sup>

### 1.3 Government policies on broadcasting and minorities

The Act of the Slovak National Council of 24 May 1991 on Slovak Radio, No. 255/1991 Coll., regulates the licence-granting procedure operated by the Council for Broadcasting and Retransmission.<sup>4</sup> The Law requires Slovak Radio to provide “by means of radio broadcasting in mother tongues the exercise of the interests of nationalities and ethnic groups living in the Slovak Republic” (§5 (2)).<sup>5</sup> Both this Law and the Act on Slovak Television, No. 254/1991 Coll.<sup>6</sup> (see *infra*), require the promotion of the national culture and cultures of the various minorities living in the Slovak Republic through programming and other activities.

## 2 Constitution

The following presents excerpts from the Constitution, as adopted on 3 September 1992 (including the Amendments of 14 July 1998 and 14 January 1999).<sup>7</sup>

### 2.1 Freedom of expression

Article.26

- (1) Freedom of expression and the right to information shall be guaranteed.
- (2) Every person has the right to express his or her opinion in words, writing, print, images and any other means, and also to seek, receive and disseminate ideas and information both nationally and internationally. No approval process shall be required for publication of the press. Radio and television companies may be required to seek permission from governmental authorities to set up private businesses. Further details shall be provided by law.
- (3) Censorship shall be prohibited.
- (4) Freedom of expression and the right to receive and disseminate information may be lawfully limited only where, in a democratic society, it is necessary to protect rights and freedoms of others, state security, law and order, health and morality.

### 2.2 Minority rights

Article 12

2. Fundamental rights shall be guaranteed in the Slovak Republic to every person regardless of sex, race, colour, language, faith, religion, political affiliation or conviction, national or social origin, nationality or ethnic origin, property, birth or any

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<sup>3</sup> *Ibid.*, Section on Article 9.

<sup>4</sup> For further information on the Council for Broadcasting and Retransmission, see: <http://www.rada-rtv.sk>.

<sup>5</sup> Source: Ministry of Culture of the Slovak Republic: <http://www.culture.gov.sk/english/LEG/leg1.html>; also available at: <http://www.rada-rtv.sk>.

<sup>6</sup> Available at: <http://www.rada-rtv.sk>.

<sup>7</sup> Source: Government Office of the Slovak Republic, available at: [http://www.government.gov.sk/VLADA/USTAVA/en\\_vlada\\_ustava.shtml](http://www.government.gov.sk/VLADA/USTAVA/en_vlada_ustava.shtml).

other status, and no person shall be denied their legal rights, discriminated or favoured on any of these grounds.

#### Article 34

1. Citizens of national minorities or ethnic groups in the Slovak Republic shall be guaranteed their full development, particularly the rights to promote their cultural heritage with other citizens of the same national minority or ethnic group, receive and disseminate information in their mother tongue, form associations, and create and maintain educational and cultural institutions. Details thereof will be determined by law.

#### Article 47

2. Every person shall have the right to counsel from the outset of proceedings before any court of law, or a governmental or public authority as provided by law.

### 2.3 (Official/State) language(s)

#### Article 6

1. Slovak is the official language of the Slovak Republic.
2. The use of languages other than the official language in official communications shall be determined by law.

## 3 Legislation

### 3.1 General legislation affecting minorities and their linguistic rights

On 1 January 1996, the Meciar Government passed a language law, which set Slovak as the only official language in Slovakia. This law was problematic as it broke the 1995 Slovak-Hungarian State Treaty, which guaranteed Slovak minorities in Hungary and Hungarian minorities in Slovakia the right to use their own language in official contacts.

In the autumn of 1997, the Slovak Constitutional Court ruled the Law on the State Language 270/1995<sup>8</sup> unconstitutional as it violated Articles 24, 28 and 34 of the Constitution.<sup>9</sup> On 11 July 1999, the Slovak Parliament passed the final draft version of the Law on the Use of Minority Languages to replace the unconstitutional law. The new Law re-established minority language rights in Slovakia, although for the purposes of the Law, only national minorities that represent at least 20% of the inhabitants of a given municipality are entitled to the rights set out therein. This threshold may thus exclude several minorities, including Ruthenian populations.

#### LAW ON THE USE OF MINORITY LANGUAGES, 1999<sup>10</sup>

Preamble:

<sup>8</sup> Adopted on 15 November 1995, available at: [http://www.culture.gov.sk/english/LEG/Z95\\_270.htm](http://www.culture.gov.sk/english/LEG/Z95_270.htm).

<sup>9</sup> Constitutional Court of the Slovak Republic, File Ref. PL. ÚS 8/96 of 26 August 1997, published in the Collection of Laws of the Slovak Republic, Part 110, under No. 260/1997. See: <http://www.concourt.sk>.

<sup>10</sup> Passed into law by the 17th Session of the Slovak Parliament on 11 July 1999. Source: Ministry of Culture of Slovak Republic website: <http://www.culture.gov.sk/english/LEG/leg1.html>. Footnotes omitted.

[...] recognizing that the Slovak language is the state language of the Slovak Republic and that it is desirable to establish the use of languages of citizens of the Slovak Republic who are members of national minorities, enacted the following law:

§ 1

The citizen of the Slovak Republic who is a member of a national minority is entitled to use, in addition to the state language, the language of the national minority (hereinafter referred to as “minority language”). The purpose of this law is to establish, in harmony with other legislation, the rules of use of minority languages also in official contacts.

§ 2

(1) Citizens of the Slovak Republic who are members of national minorities and, by the results of the latest census, represent at least 20 % of the total population in the community may use the minority language in such a community in official contacts.

(2) The list of communities pursuant to par. (1) shall be established by decree of the Government of the Slovak Republic.

[...]

### 3.2 Broadcasting legislation

ACT ON BROADCASTING AND RETRANSMISSION AND ON AMENDMENTS OF ACT NO. 195/2000 COLL. ON TELECOMMUNICATIONS, NO. 308/2000<sup>11</sup>

#### § 16 Basic duties of broadcasters

A broadcaster has the duty

[...]

g) to ensure the use of the state language and the languages of national minorities in accordance with special regulations in the broadcasting of programmes and other elements of the programme service.

The current Slovak Radio and Television Acts state that radio and television must provide programming that contributes to the development of national minorities living in Slovakia.

SLOVAK RADIO ACT, NO. 255/1991 COLL.<sup>12</sup>

§ 5 (2) Slovak Radio ensures by means of radio broadcasting in mother tongues the exercise of the interests of nationalities and ethnic groups living in the Slovak Republic.

§ 6 : Slovak Radio fulfils the following tasks in particular:

[...]

d) contribute by radio broadcasting to the development of the national culture and the cultures of nationalities living in the Slovak Republic as well as transmitting the cultural values of other nations.

<sup>11</sup> Adopted on 14 September 2000, available at: <http://www.rada-rtv.sk/a/a1.1.html>. Footnotes omitted.

<sup>12</sup> As amended by Act No. 483/1992 Coll.; Act No. 166/1993 Coll.; Act No. 83/1995 Coll.; Act No. 321/1996 Coll.; Act No. 335/1998 Coll.; source: The Ministry of Culture of the Slovak Republic: <http://www.culture.gov.sk/english/LEG/leg1.html>; also available at: <http://www.rada-rtv.sk>.

SLOVAK TELEVISION ACT, NO. 254/1991 COLL.<sup>13</sup>

§ 3 (3): Slovak Television also caters for the interests of the national minorities and ethnic groups living in the Slovak Republic through television broadcasts in their respective mother tongues.

§ 6 Slovak Television fulfils the following tasks:

[...]

(j) it contributes, by means of television broadcasting, to promoting national culture and the cultures of the minorities living in the Slovak Republic, and to mediating the cultural values of other nations.

### 3.3 Transfrontier dimension

Slovakia is party to a treaty of good neighbourliness with Hungary, which requires it to provide the “the right of access to public mass media without discrimination and the right to their own media” to the Hungarian minority.

TREATY ON GOOD NEIGHBOURLINESS AND FRIENDLY COOPERATION BETWEEN THE SLOVAK REPUBLIC AND THE REPUBLIC OF HUNGARY, 19 MARCH 1995

Article 15 (2)(g)

Persons belonging to the Hungarian minority in the Slovak Republic and those belonging to the Slovak minority in the Republic of Hungary shall have the right to use, individually or in community with other members of their group, orally and in writing, their minority language both in private and in public. They shall also have [...] the right of access to public mass media without discrimination and the right to their own media.<sup>14</sup>

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<sup>13</sup> Amended by: Act No. 482/1992 Coll.; Act No. 166/1993 Coll.; Act No. 82/1995 Coll.; Act No. 321/1996 Coll.; Act No. 335/1998 Coll.. Source: Minority Electronic Resources: [http://www.riga.lv/minelres/NationalLegislation/Slovakia/Slovakia\\_TV\\_excerpts\\_English.htm](http://www.riga.lv/minelres/NationalLegislation/Slovakia/Slovakia_TV_excerpts_English.htm). The full text of the Law is also available at: <http://www.rada-rtv.sk>.

<sup>14</sup> Emphasis added. Source: Government Office for Hungarian Minorities Abroad, see: <http://www.htmh.hu/dokumentumok/asz-sk-e.htm>.

## Slovenia

The Slovenian Constitution grants special rights to Hungarians, Italians and the Roma who reside in the country. While the Slovene language is the official language of the state, constitutional and legislative provision is made for Hungarian and Italian to enjoy equal status with Slovene for administrative, judicial and other purposes in certain parts of the country. Special consideration is also given to the three minority-language communities in question in the main piece of broadcasting legislation. Apart from affirming the right of access of these minorities to information and expressly authorising programming and advertising in these languages, the legislation also equates linguistic competence in Hungarian or Italian with similar competence in Slovene, where appropriate. The significance of this is that it removes the obligation of proficiency in Slovene (usually a precondition for becoming a “responsible editor”) for individuals aspiring to editorial roles in the broadcasting sector when their likely linguistic area of activity will be Hungarian or Italian. The legislation consistently applies such equations, for instance, when determining the origin of audiovisual works (which must amount to a “significant proportion” of the annual transmission time of every television station). Conversely, radio stations for the Hungarian and Italian ethnic communities are exempted from the requirement that at least 10% of the daily transmission time of any radio station must comprise Slovenian music.

### 1 Introduction

#### 1.1 Linguistic topography

In terms of ethnic structure, the Republic of Slovenia is a relatively homogeneous country. The ethnic structure of the population living on the Slovene territory has not changed significantly throughout different historical periods. The main changes in this regard date from after the Second World War. During this time, the proportion of Slovenes decreased, as did the proportion of members of autochthonous ethnic communities (Hungarians and Italians). At the same time, there was also a rise in the proportion of “new-era ethnic minorities”, namely people who moved to Slovenia from various parts of the former Yugoslav Federation, mostly for economic reasons, after the Second World War. The majority of these immigrants (more than 170,000) have been granted Slovene citizenship since Slovenia gained independence in 1991.<sup>1</sup>

The main nationality in Slovenia is Slovene and the main language spoken is Slovene. According to data collected for the last Census (1991),<sup>2</sup> the population of Slovenia included 1,727,018 Slovenes (87.84% of the total population). The same data shows that the population also included: 8,503 Hungarians (0.43%) and 3,064 Italians (0.16%), groups which are constitutionally-recognised autochthonous national minorities, with special rights guaranteed by Constitution. The Slovene Constitution also grants special rights to members

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<sup>1</sup> See Sonja Novak Lukanovic, “The Italian and Hungarian Autochthonous Ethnic Communities, and the Romany in the Republic of Slovenia”, June 1999, Government of the Republic of Slovenia - Public Relations and Media Office, available at: <http://www.uvi.si/eng/new/background-information/minorities-in-slovenia/>.

<sup>2</sup> A national Census is also being conducted in 2002 and the results will be published in April 2003 at: <http://www.gov.si/zrs/eng/index.html>.

of the Roma Community living in the Republic of Slovenia. At the moment, 2,293 Roma (0.12%) are living in Slovenia.<sup>3</sup>

The Italian ethnic community lives in relatively dense groups in the ethnically-mixed territory of Slovene Istria, in the municipalities of Koper/Capodistria, Izola/Isola and Piran/Pirano. The region in which the Hungarian autochthonous ethnic community is settled covers a narrow belt along the Slovene-Hungarian border. In administrative terms, they fall under the jurisdiction of five municipalities: Hodos, Moravske Toplice, Salovci, Lendava and Dobrovnik. The Hungarian ethnic community is densely populated in this region. The ethnically-mixed areas are set out in municipal statutes.

The majority of the Roma live in relatively dense groups in north-eastern Slovenia, mostly in the Prekmurje region, while they are also scattered throughout southern Slovenia, along the border with Croatia. The exact number of the Roma population is not known, since censuses have shown that a decreasing number of people declare themselves to belong to the Roma Community.<sup>4</sup>

Besides the constitutionally-recognised autochthonous minorities and the Roma Community (which also benefits from constitutionally-conferred rights), citizens of many other nations are currently residing in Slovenia, including: 199 Austrians (0.01% of the total population); 546 Germans (0.03%); 4,396 Montenegrins (0.22%); 54,212 Croats (2.76%); 4,432 Macedonians (0.22%); 26,842 Muslims (1.36%)<sup>5</sup> and 47,911 Serbs (2.44%).<sup>6</sup>

## 1.2 Broadcasting

According to the law,<sup>7</sup> RTV Slovenia broadcasts on two national television channels and three national radio channels; airs one radio and television channel for the Italian and Hungarian national community respectively; produces radio and television programmes for Slovene national minorities in neighbouring countries, radio and television programmes for foreign audiences and radio and television programmes in the regional centres in Maribor and Koper/Capodistria.<sup>8</sup>

There is one national public television station, *TV Slovenija*, which transmits two national television programmes (*RTV Slovenija 1*, *RTV Slovenija 2*). There are also three nationwide private television stations (*POP TV*, *TV3* and *A-kanal*) in Slovenia.

There is one national public radio station, *Radio Slovenija*,<sup>9</sup> which transmits three national radio programmes (*Prvi program A1*, *Drugi program VAL 202*, *Tretji program ARS*). Apart from these, there are many regional and local radio stations which can be heard in one or

<sup>3</sup> Statistical Office of the Republic of Slovenia - Statistical Yearbook 2001 SY 2001 - 04. Population, available at: <http://www.gov.si/zrs/eng/index.html>.

<sup>4</sup> See further: Čampa Margit, *Širjenje Evropske unije in varstvo manjšin – primer Slovenije*, 2001; Sonja Novak Lukanovic, *op. cit.*

<sup>5</sup> The ethnic category 'Muslim', which was introduced in the post-war censuses of the Yugoslav population, mostly incorporated people from the territory of Bosnia-Herzegovina, who today mostly declare themselves 'Bosnjaks'.

<sup>6</sup> Slovene Statistical Yearbook 2001, *op. cit.*

<sup>7</sup> *Zakon o Radioteleviziji Slovenija*; *Uradni list RS*, št. 18-729/1994.

<sup>8</sup> *Radio televizija Slovenija*, see further:

[http://www.rtv slo.si/portal/page?\\_pageid=33,31370&\\_dad=portal&\\_schema=PORTAL](http://www.rtv slo.si/portal/page?_pageid=33,31370&_dad=portal&_schema=PORTAL)

<sup>9</sup> *Radio televizija Slovenija*, see further:

[http://www.rtv slo.si/portal/page?\\_pageid=33,32636&\\_dad=portal&\\_schema=PORTAL&p\\_calledfrom=1](http://www.rtv slo.si/portal/page?_pageid=33,32636&_dad=portal&_schema=PORTAL&p_calledfrom=1)

more regions. Because of very specific terrain, smaller stations all around the country experience signalling difficulties.

Slovenia's legislation takes into account the specific needs of the ethnic communities. In the ethnically-mixed region of Slovene Istria, where Slovenes live together with Italians, the regional Koper/Capodistria radio and television station plays a very important role. This is a part of the national public institution, *Radiotelevizija Slovenija*, but is independent in terms of management of programming policy and has a direct influence on the appointment of the directors and editors of the Koper/Capodistria station. Radio Koper/Capodistria (*Onda Blu*) began to transmit programmes in Italian in 1945 and today it broadcasts for fourteen hours per day in the Italian language.<sup>10</sup> Television Koper/Capodistria<sup>11</sup> began operating in 1971 and its target audience is members of the Italian ethnic community living in Slovenia and Croatia; it broadcasts eight hours a day in the Italian language. It must also be emphasised that there are no technical or legal obstacles to receiving all major Italian radio and television programmes in the parts of Slovenia where the Italian minority is living.

Members of the Hungarian ethnic community can also listen to programmes in the Hungarian language broadcast by the Hungarian regional studio (for Hungarian programming), which operates as part of *Radiotelevizija Slovenija*. *MMR Pomurski madžarski programme (Muravidék Magyar Radió)* broadcasts in the Hungarian language.<sup>12</sup> The head office of radio and television programming management for the Hungarian ethnic community is based in Lendava. There is also a Hungarian television programme service – *Mostovi/Hidak*.<sup>13</sup>

### 1.3 Government policies on broadcasting and minorities

The Government grants special subsidies for (autochthonous and non-autochthonous) minority organisations in the field of broadcasting. There is a wide consensus among people, reflected in governmental policies, that members of minority groups should have special and preferential status, with a view to achieving full equality in society.

## 2 Constitution

*Ustava Republike Slovenije* (the Constitution of the Republic of Slovenia), 1991,<sup>14</sup> is the highest legal act in the Republic of Slovenia. Before describing in full its most important provisions for present purposes, note should be taken of Article 8 of the Constitution, which reads:

Laws and regulations must comply with generally accepted principles of international law and with treaties that are binding on Slovenia. Ratified and published treaties shall be applied directly.

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<sup>10</sup> See further:

[http://www.rtvslo.si/portal/page?\\_pageid=33,32642&\\_dad=portal&\\_schema=PORTAL&p\\_calledfrom=1](http://www.rtvslo.si/portal/page?_pageid=33,32642&_dad=portal&_schema=PORTAL&p_calledfrom=1).

<sup>11</sup> *Radio televizija Slovenija*, see further:

[http://www.rtvslo.si/portal/page?\\_pageid=33,32642&\\_dad=portal&\\_schema=PORTAL&p\\_calledfrom=1](http://www.rtvslo.si/portal/page?_pageid=33,32642&_dad=portal&_schema=PORTAL&p_calledfrom=1).

<sup>12</sup> *Radio televizija Slovenija*, see further:

[http://www.rtvslo.si/portal/page?\\_pageid=33,32622&\\_dad=portal&\\_schema=PORTAL&p\\_calledfrom=1](http://www.rtvslo.si/portal/page?_pageid=33,32622&_dad=portal&_schema=PORTAL&p_calledfrom=1).

<sup>13</sup> *Radio televizija Slovenija*, see further:

[http://www.rtvslo.si/portal/page?\\_pageid=33,32625&\\_dad=portal&\\_schema=PORTAL&p\\_calledfrom=1](http://www.rtvslo.si/portal/page?_pageid=33,32625&_dad=portal&_schema=PORTAL&p_calledfrom=1).

<sup>14</sup> Adopted on 23 December 1991 (Official Gazette of the Republic of Slovenia, No. 33/91-I), as amended by the Constitutional Act of 14 July 1997 (Official Gazette of the Republic of Slovenia, No. 42/97) and the Constitutional Act of 25 July 2000 (Official Gazette of the Republic of Slovenia, No. 66/2000), available at: <http://www.dz-rs.si/en/aktualno/zakonodaja.html>.

This Article is very important, as many international treaties are ratified by, and applied in, the Republic of Slovenia. The Constitutional Court of the Republic of Slovenia has gone even further and refers in its own decisions to the most important, generally-accepted principles of international law and their application in different legal fields by various, generally-recognised legal bodies.<sup>15</sup> Human rights are given both general and specific treatment in the Slovenian Constitution.

#### Article 5

In its own territory, the state shall protect human rights and fundamental freedoms. It shall protect and guarantee the rights of the autochthonous Italian and Hungarian national communities. [...] It shall provide for the preservation of the natural wealth and cultural heritage and create opportunities for the harmonious development of society and culture in Slovenia [...]

#### 2.1 Freedom of expression

Concerning broadcasting rights and freedom of expression, there is only one provision dealing generally with such issues. However, as already mentioned, international legal instruments to which Slovenia is a party also play an important role in domestic law.

#### Article 39

(Freedom of Expression)

Freedom of expression of thought, freedom of speech and public appearance, of the press and other forms of public communication and expression shall be guaranteed. Everyone may freely collect, receive and disseminate information and opinions. Except in such cases as are provided by law, everyone has the right to obtain information of a public nature in which he has a well founded legal interest under law.

#### 2.2 Minority rights

Hungarian and Italian minorities, because of their special historical status, are guaranteed special rights by the Constitution.

#### Article 64

(Special Rights of the Autochthonous Italian and Hungarian National Communities in Slovenia)<sup>16</sup>

*The autochthonous Italian and Hungarian national communities and their members shall be guaranteed the right to use their national symbols freely and, in order to preserve their national identity, the right to establish organizations and develop economic, cultural, scientific and research activities, as well as activities in the field of public media and publishing. [...] These national communities and their members shall be guaranteed the right to foster relations with their nations of origin and their respective countries. The state shall provide material and moral support for the exercise of these rights.*

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<sup>15</sup> There are many references to decisions of the European Court of Human Rights.

<sup>16</sup> Emphasis added.

In order to exercise their rights, the members of these communities shall establish their own self-governing communities in the geographic areas where they live. On the proposal of these self-governing national communities, the state may authorize them to perform certain functions under national jurisdiction, and shall provide funds for the performing of such functions.

The two national communities shall be directly represented in representative bodies of local self-government and in the National Assembly.

The position of the Italian and Hungarian national communities and the manner in which their rights are exercised in the geographic areas where they live, the obligations of the self-governing local communities for the exercise of these rights, and those rights which the members of these national communities exercise also outside these areas, shall all be regulated by law. The rights of both national communities and their members shall be guaranteed irrespective of the number of members of these communities.

Laws, regulations and other general acts that concern the exercise of the constitutionally provided rights and the position of the national communities exclusively, may not be adopted without the consent of representatives of these national communities.

In addition, the Roma Community in Slovenia is recognised and accorded special status by the Constitution:

Article 65  
(Status and Special Rights of the Romany Community in Slovenia)

The status and special rights of the Romany community living in Slovenia shall be regulated by law.

### **2.3 (Official/State) language(s)**

Article 11 of the Constitution grants official-language status to the Slovene language and in some parts of Slovenia, to the Italian and Hungarian languages as second official languages.

Article 11

The official language in Slovenia is Slovene. In those municipalities where Italian or Hungarian national communities reside, Italian or Hungarian shall also be official languages.

In this context, Articles 14, 61 and 62 should also be read:

Article 14  
(Equality before the Law)

In Slovenia everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other conviction, material standing, birth, education, social status or any other personal circumstance.

All are equal before the law.

#### Article 61

(Expression of National Affiliation)

Everyone has the right to freely express affiliation with his nation or national community, to foster and give expression to his culture and to use his language and script.

#### Article 62

(Right to Use One's Language and Script)

Everyone has the right to use his language and script in a manner provided by law in the exercise of his rights and duties and in procedures before state and other bodies performing a public function.

### 3 Legislation

#### 3.1 General legislation affecting minorities and their linguistic rights

There are many acts dealing with minority and linguistic rights: the Courts Act (1994),<sup>17</sup> the Public Administration Act (2002)<sup>18</sup> and the Act on special rights of members of Italian and Hungarian ethnicity in the schooling system.<sup>19</sup> Everyone can use the language of his/her choice in private, but in public, one is obliged to use the Slovene language, with some exceptions. In the ethnically-mixed regions of Prekmurje and Slovene Istria, the Hungarian and Italian languages enjoy equal status with the Slovene language on the level of both private and public use. Slovene and Italian, or Slovene and Hungarian, have equal status in the operation of administrative, national and judicial bodies. Topographical signs in these regions are also bilingual, as is the schools system.

#### THE PUBLIC ADMINISTRATION ACT OF 2002

##### Article 4

The official language in administration shall be Slovene.

In municipal areas with original Italian and Hungarian ethnic communities the second official language shall be Italian and Hungarian, respectively. In these areas the

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<sup>17</sup> *Zakon o sodiščih*; *Uradni list RS*, št. 19/94; amended: 45/1995, 26/1999, 38/1999, 45/1999 Odl.US: U-I-144/95, 28/2000, 26/2001, 56/2002), available in Slovene at: <http://www.sodisce.si/Zakoni/B/ZS.htm>. Excerpts in English available at:

[http://www.riga.lv/minelres/NationalLegislation/Slovenia/Slovenia\\_Courts\\_excerpts\\_English.htm](http://www.riga.lv/minelres/NationalLegislation/Slovenia/Slovenia_Courts_excerpts_English.htm). See, in particular, Article 4. Similar provisions to the ones found in the Act on Public Administration can be found in almost every Act dealing with the operation of administrative, national and judicial bodies. For members of national minorities, identity cards are in the Slovene language and in the language of the national minority, if they want and decide to have such identity cards. The same rule applies for visas and for passports.

<sup>18</sup> *Zakon o državni upravi /ZDU-1/*, *Uradni list RS*, št. 52/2002, available in Slovene at: [http://www.dz-rs.si/si/aktualno/spremljanje\\_zakonodaje/sprejeti\\_zakoni/sprejeti\\_zakoni.html](http://www.dz-rs.si/si/aktualno/spremljanje_zakonodaje/sprejeti_zakoni/sprejeti_zakoni.html). See in particular, Article 3.

<sup>19</sup> *Zakon posebnih pravic pripadnikov italijanske in madžarske narodnosti na področju vzgoje in izobraževanja*, *Uradni list RS*, št. 35-2046/2001, available in Slovene at: [http://www.dz-rs.si/si/aktualno/spremljanje\\_zakonodaje/sprejeti\\_zakoni/sprejeti\\_zakoni.html](http://www.dz-rs.si/si/aktualno/spremljanje_zakonodaje/sprejeti_zakoni/sprejeti_zakoni.html).

administration shall carry out operations, conduct proceedings and issue legal and other acts in Slovene or in the language of the ethnic community, if the party residing in such an area should speak Italian or Hungarian, as the case may be.  
[...]

### 3.2 Broadcasting legislation<sup>20</sup>

#### MASS MEDIA ACT OF 2001<sup>21</sup>

Slovene broadcasting legislation is relatively new. Members of recognised minorities enjoy the same status as Slovenes, with some preferential exceptions which are designed to give those minorities more breathing space. The Mass Media Act was adopted on 25 April 2001 and it deals with a range of minority issues in different Articles. Article 4 defines the public interest in the area of the mass media.

#### Article 4

(1) The Republic of Slovenia shall support the mass media in the dissemination of programming important to:

The exercise of the right of citizens of the Republic of Slovenia, Slovenes around the world, members of the Slovene minorities in Austria, Hungary and Italy, the Hungarian and Italian ethnic communities in Slovenia, and the Romany community living in Slovenia to public information and to be informed in general the protection of the Slovenian national and cultural identity, the promotion of cultural creativity in the area of the mass media, a culture of public dialogue the consolidation of the social state based on the rule of law, the development of education and science.

(2) The Republic of Slovenia shall support the development of technical infrastructure in the area of the mass media.

(3) The Republic of Slovenia shall provide extra support to the dissemination of programming intended for the blind and the deaf-and-dumb using techniques thereto adapted, and to the development of the appropriate technical infrastructure.

(4) The government shall at the proposal of the minister responsible for culture (hereinafter: the responsible minister) set out the conditions, criteria and procedure for carrying out a regular annual public tender for co-financing the creation of programming and the development of the technical infrastructure specified in this article using funds from the national budget, in accordance with the provisions of the act governing the implementation of the public interest in the field of culture.

Article 5 defines the protection given to the Slovene language.

#### Article 5

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<sup>20</sup> Emphasis has been added to certain sections of the provisions quoted in this section.

<sup>21</sup> Available in Slovene at: [http://www.dz-rs.si/si/aktualno/spremljanje\\_zakonodaje/sprejeti\\_zakoni/sprejeti\\_zakoni.html](http://www.dz-rs.si/si/aktualno/spremljanje_zakonodaje/sprejeti_zakoni/sprejeti_zakoni.html).

(1) Publishers founded and registered in the Republic of Slovenia must disseminate programming in Slovene, or must translate programming into Slovene in an appropriate manner, unless such is primarily intended for readers, listeners or viewers from any other language group.

(2) Publishers may disseminate programming intended for language education in a foreign language.

(3) The reason for disseminating programming in a foreign language or the purpose thereof must be separately elaborated in a discernible position within/on the programming medium using clear graphic, visual or acoustic symbols in Slovene.

(4) If programming is intended for the Hungarian or Italian ethnic communities, publishers may disseminate the programming in the language of the ethnic community.

(5) If, for reasons of the immediacy, directness, and authenticity of informing the public, or because of unavoidable time or technical obstacles or other unforeseen obstacles, programming is exceptionally disseminated in a foreign language, the provision of the third paragraph of this article shall apply.

(6) The sense of the provision of the first paragraph of this article shall also apply to media carrying information specified in the third paragraph of Article 2 of the present act.

The Act also guarantees the freedom to distribute programming across state borders:

#### Article 7

The Republic of Slovenia shall in its territory ensure freedom in disseminating and receiving programming from other countries, and may in individual cases restrict such freedom only in accordance with an international treaty by which the Republic of Slovenia is bound, and with the present act.

There are many Articles concerning the rights of members of minorities (see Articles 19, 51, 63, 68, 78, 86, 87):

#### Article 19

(1) Any person who fulfils the following conditions may be a responsible editor:

- *the person possesses a certificate of active knowledge of Slovene if the person is not a citizen of the Republic of Slovenia*
- *the person possesses a certificate of active knowledge of Hungarian or Italian in the event that the mass medium is for the Hungarian or Italian ethnic communities*
- the person has commercial capability
- no ban on working in the profession, performing activities or making public appearances has been pronounced against the person

*(2) The provisions of the first and second indents of the previous paragraph shall not apply if the programming is disseminated in a foreign language in accordance with the first paragraph of Article 5 of the present act.*

(3) Any person who enjoys immunity under the constitution or the law may not be a responsible editor.

#### Article 51

(1) It shall be obligatory to disseminate advertisements in Slovene or in a Slovene translation, unless disseminated in a foreign language in accordance with the present act.

*(2) Mass media for the Hungarian and Italian ethnic communities may publish advertisements in the language of the ethnic community.*

#### Stakes of foreign persons

##### Article 63

The provisions of this section shall also apply to foreign legal and natural persons, irrespective of the country in which their head office or permanent residence is located, unless stipulated otherwise by the present act.

#### Slovenian audio-visual works

##### Article 68

*(1) Under the present act Slovenian audio-visual works are works produced originally in Slovene or works intended for the Hungarian and Italian ethnic communities in the language thereof, and works of Slovenian cultural origin from other areas of the arts.*

(2) Audio-visual works specified in the previous paragraph are only those expressed in any manner as individual intellectual creations from the fields of literature, science and art.

(3) In accordance with Articles 4 and 110 of the present act the Republic of Slovenia shall support the establishment and progressive development of the Slovenian audio-visual industry, and shall promote the creation of Slovenian audio-visual works, such as TV feature films and dramas, arts and culture series, entertainment series, serials, documentaries and educational works.

(4) The Republic of Slovenia shall promote the development of technical infrastructure for audio-visual production.

(5) The Government of the Republic of Slovenia shall at the proposal of the relevant ministry adopt an act setting out the detailed criteria and conditions for the definition of works specified in this article.

#### Article 78

(1) A publisher specified in this article may acquire the status of a local radio or television station if it also fulfils the following extra conditions:

- the station provides objective and unbiased information for inhabitants of the local community and the balanced presentation of different opinions and views on political, cultural, religious, economic and other issues important to the life and work of the local inhabitants

- the publisher appoints a program committee in which the interests of the local community in the areas of commerce, culture, education and sport, and of the publisher of the station are represented

- the programming is primarily of a local character, and is jointly created by inhabitants of the local community

*- it has programming from the lives and work of Slovenes in neighboring countries, members of the Hungarian and Italian ethnic communities, and Roma, if it is receivable in areas where such communities live*

- the station's daily transmission time provides a higher proportion of programming of a local character than other radio and television stations that fulfil the criteria specified in this article and broadcast in the same area

(2) The program committee specified in the third indent of the previous paragraph, which shall have at least three members, shall monitor the implementation of the program concept, acquaint the responsible editor with its viewpoints and suggestions, offer opinions on the program concept and perform other tasks in accordance with the present act and the act on the founding of the program committee. Within fifteen days of adopting the act on the founding of the program committee or amendments or additions thereto the publisher must send such to the agency for their information.

(3) The agency shall issue a ruling on the assignment of the status of a local radio or television station, following a prior opinion from the relevant ministry.

(4) If a radio or television station no longer fulfils the conditions specified in this article the agency may revoke its status via a ruling and shall notify the relevant ministry of such.

#### Proportion of Slovenian music on radio stations Article 86

*(1) At least ten per cent of the daily transmission time of any radio station must be Slovenian music.*

(2) No more than twenty per cent of the daily transmission time during which Slovenian music is presented may count towards the proportion specified in the third paragraph of the previous article.

*(3) The provisions of this article shall not apply to radio stations for the Hungarian and Italian ethnic communities.*

Proportion of Slovenian audio-visual works  
Article 87

(1) *The publisher of every television station must endeavor to see that a significant proportion of the annual transmission time comprises Slovenian audio-visual works.*

(2) Slovenian audio-visual works must account for at least two per cent of the annual transmission time of each television station of a publisher. The publisher must increase the proportion of such works each year in comparison with the proportion of annual transmission time in the previous year, until the proportion reaches five per cent of the annual transmission time, unless stipulated otherwise by the present act.

(3) Advertisements and telesales shall not be included in the annual transmission time specified in this article.

#### **4 Application of legislation and other measures affecting language**

The Mass Media Act 2001 entered into force on 25 April 2001. The application of the Act throughout its brief existence has been smooth and has not yet given rise to any special questions in practice. As regards minority rights, the Act has reaffirmed already-existing and enacted rights.

#### **5 Current developments**

At the moment, there are no significant specific developments to report in this connection. Although Slovenia has recognised only two autochthonous minorities and the Roma Community, the State also gives financial support to newspapers of other non-officially recognised minorities. It should also be mentioned that there is an ongoing debate about whether Austrians, Germans and in some parts of Slovenia, Serbs and Croats, may be recognised as autochthonous minorities. These concern small minority populations which have been living on that territory for centuries, as opposed to “new-era minorities”.

## Spain

Although Castilian is recognised by the Spanish Constitution as the official language of the state, provision is also made for the use of other (co-official) languages by the country's Autonomous Communities, where applicable. Basque, Catalan, and Galician are the most well-known of these other languages, which are also frequently used in regional and local broadcasting. It is the Autonomous Communities themselves which must declare a language spoken within their territories as "co-official", should they wish to do so. To date, six of the 17 Autonomous Communities have their own co-official languages and two more have committed themselves to the protection of their dialects. It follows from this that the Autonomous Communities also have responsibility for devising and implementing their own broadcasting legislation/policies (which would, of course, remain subject to the corresponding national order). Radio and television concessionaires under Catalan jurisdiction must, for example, comply with quotas for audiovisual works in Catalan (half of their programming must be in Catalan; for radios, an extra quota of 25% of the songs must also be in Catalan).

Relevant national legislation declares all broadcasting to be a public service; a vehicle for information and a vector for political participation, education and culture. One of its enumerated guiding principles is respect for linguistic pluralism. The public service broadcaster (which operates two national analogue terrestrial television stations and five radio stations) is obliged to provide regional programme material, including programmes in the co-official languages. The public service broadcaster has an advisory committee in each Autonomous Community. Similarly, the three national private analogue terrestrial television concessionaires are required to provide some regional programme material. Where public service broadcasters exist in Autonomous Communities with co-official languages, most (if not all) of the programming is in the co-official language. The forthcoming advent of digital terrestrial broadcasting is likely to lead to the establishment of regional private broadcasters, which will comply with the relevant regional legislation on the promotion of co-official languages. In the same vein, despite the liberalisation of the telecommunications sector, cable television broadcasters targeting an audience strictly from one Autonomous Community shall also apply to existing legislation on the use or promotion of the co-official language, where applicable. Whether public or private in character, regional radio stations must also comply with existing regional provisions on the use and promotion of co-official languages.

## 1 Introduction

### 1.1 Linguistic topography

Castilian (also known as Spanish) is the official language of Spain (Article 3.1 of the 1978 Spanish Constitution). It is spoken all over the country (40 million inhabitants). According to Article 3.2 of the Spanish Constitution, the other languages of Spain will also be official in their respective Autonomous Communities.

Three other languages are also spoken in Spain:

*Galician* (in Spanish, *gallego*; in Galician, *galego*) is spoken in Galicia and in some parts of Asturias and northern Castilla-León. Galician and Spanish are the official languages in the Autonomous Community of Galicia. Galician is spoken by approx. two million people.

*Basque* (*vasco - euskara*) is spoken in the Basque Country and in some parts of Navarra. Basque and Spanish are the official languages in those territories. Basque is spoken by approx. 700,000 people.

*Catalan* (*catalán - català*) is spoken in Catalonia, in the Balears and in the Autonomous Community of Valencia (where it is called *valenciano*). Spanish and Catalan/Valenciano (hereinafter, “Catalan”) are the official languages in those territories. Catalan is spoken by approx. six million people.

Some dialects (*bable* in Asturias, *fabla* in Aragon) are also protected by regional legislation. *Aranés*, a dialect of the Occitan language, is spoken in Val d’Arán (a county in Catalonia), and Catalan legislation also protects it.

The Spanish Constitution clearly mandates the public authorities to promote the use of all the official languages of Spain. The 1978 Spanish Constitution brought an end to the discrimination against minority languages suffered by several regions during Franco’s dictatorship (1939 - 1975). Now, more than a quarter of a century later, the use of minority languages is widely accepted and highly encouraged by the authorities of the Autonomous Communities which have a co-official language.

## 1.2 Broadcasting

The co-official languages of Spain are frequently used by regional and local broadcasting stations. Moreover, some Autonomous Communities (in particular, Catalonia) have approved several provisions that oblige audiovisual media under their jurisdiction to broadcast programmes in their respective co-official languages. Spain has reinforced its commitment to protect and promote all the official languages of Spain by signing and ratifying the European Charter for Regional or Minority Languages.<sup>1</sup>

In Spain, there are 13 million households. Nearly all of them are able to receive analogue terrestrial broadcasting. 18% of households receive satellite broadcasts, while only 5% are cable subscribers.

## 2 Constitution<sup>2</sup>

### 2.1 Freedom of expression

Article 20

(1) The following rights are recognised and protected:

- a) To express and disseminate thoughts freely through words, writing, or any other means of reproduction.
- b) Literary, artistic, scientific, and technical production, and creation.
- c) Academic freedom.

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<sup>1</sup> See the declarations contained in the Instrument of Ratification for the Charter deposited by Spain at: <http://conventions.coe.int/treaty/EN/DeclareList.asp?NT=148&CM=1&DF=>. The Instrument of Ratification was published in the Spanish Official Journal n. 222 of 2001 (15 September 2001).

<sup>2</sup> The Spanish Constitution, 1978, available at: [http://www.uni-wuerzburg.de/law/sp00t\\_.html](http://www.uni-wuerzburg.de/law/sp00t_.html) (EN, ES).

d) To communicate or receive freely truthful information through any means of dissemination. The law shall regulate the right to the protection of the clause on conscience and professional secrecy in the exercise of these freedoms.

(2) The exercise of these rights cannot be restricted through any type of prior censorship.

(3) The law shall regulate the organisation and parliamentary control of the means of social communication owned by the state or any public entity and shall guarantee access to those means by significant social and political groups, respecting the pluralism of society and the various languages of Spain.

(4) These liberties find their limitation in the respect for the rights recognized in this Title, in the precepts of the laws which develop it and, especially, in the right to honour, privacy, personal identity, and protection of youth and childhood.

(5) The seizure of publications, recordings, or other means of information may only be determined by a judicial resolution.

## 2.2 Broadcasting

According to the Constitution, responsibility for the regulation of telecommunications and the technical aspects of broadcasting lies with the state (Article 149.1.21). In the media sector, the state has the power to approve the basic legislation for the press, radio, television and any other media, without prejudice to the powers of the Autonomous Communities to implement and enforce this basic legislation (Article 149.1.27). Responsibility for the promotion and teaching of the co-official languages lies with the Autonomous Communities (Article 148.1.17).

### Title VIII - Territorial Organisation (Articles 137 to 158)

#### Article 137

The State is organised territorially into municipalities, provinces, and the Autonomous Communities which may be constituted. All these entities enjoy autonomy for the management of their respective interests.<sup>3</sup>

#### Article 148

(1) The Autonomous Communities may assume competences in the following: [...]

17) Promotion of culture, research, and, when applicable, the teaching of the language of the Autonomous Community;

#### Article 149

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<sup>3</sup> It is important to note that 17 Autonomous Communities have been constituted in Spain, each of which has its own legislative and executive bodies. Their responsibilities are determined by their basic institutional norms, the Estatutos de Autonomía, which were devised in accordance with Articles 148 and 149 of the Spanish Constitution.

The state holds exclusive competence over the following matters [...]: [...] mail and telecommunications; [...] aerial cables, submarine cables, radio communication; basic norms of the system of press, radio, and television and, in general, of the any means of social communication, without prejudice to the faculties which in their development and execution belong to the Autonomous Communities.

## **2.3 Minority rights**

### Article 2

The Constitution is based on the indissoluble unity of the Spanish nation, the common and indivisible homeland of all Spaniards, and recognizes and guarantees the right to autonomy of the nationalities and regions which make it up and the solidarity among all of them.

### Article 9.2

It is the responsibility of the public powers to promote conditions so that liberty and equality of the individual and the groups he joins will be real and effective; to remove those obstacles which impede or make difficult their full implementation, and to facilitate participation of all citizens in the political, economic, cultural, and social life.

### Article 14

Spaniards are equal before the law, without any discrimination for reasons of birth, race, sex, religion, opinion, or any other personal or social condition or circumstance.

## **2.4 (Official/State) language(s)**

### Article 3

(1) Castilian is the official Spanish language of the state. All Spaniards have the duty to know it and the right to use it.

(2) The other languages of Spain will also be official in the respective Autonomous Communities, in accordance with their Statutes.

(3) The richness of the linguistic modalities of Spain is a cultural patrimony that will be the object of special respect and protection.

## **3 Legislation**

### **3.1 General legislation affecting minorities and their linguistic rights**

The Autonomous Communities are entitled to declare a language as co-official in their territory. They shall make these declarations by means of their "Statutes of Autonomy" (their basic institutional norms). Six of the 17 Spanish Autonomous Communities have their own

co-official languages,<sup>4</sup> and two other Autonomous Communities have committed themselves to the protection of their dialects.<sup>5</sup>

The Parliaments of these Autonomous Communities have passed Acts on the use and promotion of these languages and dialects. These Acts include provisions that deal specifically with the media under the jurisdiction of these Autonomous Communities (in particular, public regional media).<sup>6</sup> The 1998 Catalan Act on linguistic policy even imposes some quotas on the use of the co-official language in regional and local audiovisual media.<sup>7</sup> The regional Acts on the use of the co-official languages and dialects require public authorities to fund the production and distribution of audiovisual works in those regional languages.

### 3.2 Broadcasting legislation

In Spain, there are specific rules for nearly every kind of broadcasting service: public national terrestrial television (Act 4/1980); public regional television (Act 43/1983); national private terrestrial television (Act 10/1988); local terrestrial television (Act 41/1995); digital terrestrial television and radio (Act 44/1997); satellite television (Act 37/1995); cable television (Act 42/1995); the provision of conditional access services for digital television (Act 17/1997) and AM & FM radio (Act 31/1987). There are also two Acts which deal with content regulation (Act 25/1994 on the incorporation into Spanish law of the EC “Television without Frontiers” Directive and Act 21/1997 on the broadcasting of listed events) and which apply to any television programme, regardless of the delivery network used for its transmission. Some Autonomous Communities have approved rules implementing some of these national Acts.<sup>8</sup>

The two basic laws in Spanish broadcasting are the Statute on Radio and Television of 1980, which declares broadcasting to be an essential public service and sets out some basic principles which should regulate the activity of broadcasting; and Act 25/1994 on the

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<sup>4</sup> See the Statutes of Autonomy of the Basque Country (Article 6 of Organic Act 3/1979 of 18 December 1979); Catalonia (Article 3 of Organic Act 4/1979 of 18 December 1979); Galicia (Article 5 of Organic Act 1/1981 of 6 April 1981); Comunidad Valenciana (Article 7 of Organic Act 5/1982 of 1 July 1982); Navarra (Article 9 of Organic Act 13/1982 of 10 August 1982) and Baleares (Article 3 of Organic Act 2/1983 of 25 February 1983, as amended by Organic Act 3/1999 of 8 January 1999).

<sup>5</sup> See the Statutes of Autonomy of Asturias (Article 4 of Organic Act 7/1981 of 30 December 1981, as amended by Organic Act 1/1999 of 5 January 1999) and Aragon (Article 7 of Organic Act 8/1982 of 10 August 1982, as amended by Organic Act 5/1996 of 30 December 1996). Article 3.4 of the Statute of Autonomy of Catalonia also refers to the protection of a dialect (Aranés).

<sup>6</sup> See Catalan Act 1/1998 of 7 January 1998 (Articles 25 to 29 and the Fifth Additional Provision); Act of the Basque Country 10/1982 of 24 December 1982 (Articles 22 to 25); Act of Galicia 3/1983 of 15 June 1983 (Articles 18 to 20); Act of Valencia 4/1983 of 23 November 1983 (Articles 25 and 26); Act of Navarra 18/1986 of 15 December 1986 (Articles 27 and 28); Act of Baleares 3/1986 of 29 April 1986 (Articles 27 to 32); Act of Asturias 1/1998 of 28 March 1998 (Articles 12 to 14) and Act of Aragon 3/1999 of 10 March 1999 (Article 4 and the First Final Provision).

<sup>7</sup> Article 26 of Catalan Act 1/1998 obliges radio and television concessionaires under Catalan jurisdiction to comply with quotas for audiovisual works in Catalan (as a general rule, 50% of their programming must be in Catalan and for radio, an additional quota of 25% of the songs in Catalan also applies).

<sup>8</sup> Some examples include: Act 18/2001 of 5 July 2001 on the regulation of the provision of audiovisual services in Navarra and on the creation of the Audiovisual Council of Navarra, available at:

[http://v2.vlex.com/es/asp/boe\\_detalle.asp?Articulo=15780](http://v2.vlex.com/es/asp/boe_detalle.asp?Articulo=15780); Act of the Autonomous Community of Madrid 2/2001 on Audiovisual Content and Additional Services, available at:

<http://www.comadrid.es/bocm/20010504/10500001.htm>; Catalan Decree 320/1996 on the regulation of the local terrestrial television, 1 October 1996; Decree of the Autonomous Community of Extremadura 131/1994 on the awarding of concessions for the provision of FM radio services, 14 November 1994; Basque Decree 138/1994 on the provision of FM radio services by local authorities, 22 March 1994.

incorporation into Spanish law of the “Television without Frontiers” Directive, which is the most important rule as regards content regulation.

#### STATUTE ON RADIO AND TELEVISION, 1980

The Statute on Radio and Television of 1980<sup>9</sup> declares that broadcasting shall be considered a public service,<sup>10</sup> an essential vehicle for information and for political participation, as well as for education and the diffusion of culture. This public service can be provided directly by the state (RTVE and the public regional broadcasters), or it can be provided by private entities, once they have been granted a concession in a call for tenders (terrestrial television concessionaires, cable television concessionaires or radio concessionaires). Although private cable television, terrestrial television and radio broadcasters are therefore concessionaires which provide a public service, hardly any specific public service obligations have been imposed upon them. They have to comply with the general provisions relating to the provision of media services (eg. the Act on the incorporation into Spanish law of the “Television without Frontiers” Directive, which also applies to satellite television broadcasters (which do not provide a public service)). Those broadcasters which provide their services in a specific Autonomous Community (regional or local television or radio broadcasters) also have to comply with regional legislation, which is sometimes of relevance to minority-language broadcasting. Article 4 of this Statute establishes a series of principles that should regulate the activities of broadcasting, one of which is respect for political, religious, social, cultural and linguistic pluralism.<sup>11</sup>

The Statute on Radio and Television also sets out the guidelines for the public entity RTVE, which is responsible for the direct provision of the essential public service of radio and television at national level. RTVE operates two national analogue terrestrial television channels and five radio stations. The stations operated by RTVE are legally obliged to include regional programme material, part of which is broadcast in co-official languages.<sup>12</sup> Article 13 of the Statute states that that RTVE, through its regional centres, shall provide radio and television programming which shall be broadcast in the territories of the relevant nationalities or regions. This regional programming shall comply with the time limits and the criteria established for national programming by the government, according to a joint proposal made by the Board of Directors and the General Director of RTVE. RTVE has a regional Advisory Committee in each Autonomous Community.<sup>13</sup>

The three national private analogue terrestrial television concessionaires are also obliged to provide some regional programme material.<sup>14</sup> This obligation, however, does not involve any specific language requirements: it merely refers to programming relating to regional matters.

<sup>9</sup> See Act 4/1980 of 10 January 1980, available at: [http://www.setsi.mcyt.es/legisla/radio\\_tv/ley4\\_80.htm](http://www.setsi.mcyt.es/legisla/radio_tv/ley4_80.htm).

<sup>10</sup> With the exception of television satellite services, which have been liberalised in accordance with Article 1.1 of the 1995 Satellite Telecommunications and the Abrogating Provision of the 1998 General Telecommunications Act.

<sup>11</sup> Other broadcasting laws in Spain quote these principles or refer expressly to them. See, for example, Article 3 of Act 10/1988 on Private Television; Seventh Additional Provision of Act 37/1995 on Satellite Telecommunications and Article 6 of Act 41/1995 on Local Terrestrial Television.

<sup>12</sup> Article 13 of Act 4/1980 on the Statute on Radio and Television.

<sup>13</sup> See the following regional provisions on the creation of the Advisory Committees of RTVE in those Autonomous Communities with co-official languages or protected dialects: Decree of Catalonia 198/1982 of 7 July 1982; Act of Galicia 10/1983 of 9 December 1983; Act of Valencia 3/1984 of 6 June 1984; Act of Balears 6/1984 of 15 November 1984; Act of Navarra 2/1985 of 4 March 1995; Act of the Basque Country 9/1985 of 4 December 1985; Act of Asturias 5/1983 of 4 August 1983 and Act of Aragon 4/1984 of 26 June 1984.

<sup>14</sup> See Article 4, Act 10/1988 of 3 May 1988 on Private Television, available at: [http://www.setsi.mcyt.es/legisla/radio\\_tv/ley10\\_88.htm](http://www.setsi.mcyt.es/legisla/radio_tv/ley10_88.htm).

At the regional level, there are public broadcasters in some Autonomous Communities.<sup>15</sup> As regards those Autonomous Communities with official languages of their own, it must be noted that the public broadcasters of the Basque Country, Catalonia and Comunidad Valenciana each operate two analogue terrestrial television channels and that the public broadcaster of Galicia operates one television channel. Each of these public broadcasters also runs a television channel intended to be broadcast nationwide by satellite and/or cable. Moreover, all of these regional public broadcasters operate regional radio stations. These regional public radio and television stations broadcast most (and sometimes all) of their programmes in the co-official language.

There are no private regional analogue terrestrial broadcasters, but the introduction of digital terrestrial broadcasting will make it possible to create regional private broadcasters,<sup>16</sup> which shall comply with the relevant regional legislation on the promotion of co-official languages.

#### ACT 25/1994 ON THE INCORPORATION INTO SPANISH LAW OF THE “TELEVISION WITHOUT FRONTIERS” DIRECTIVE

One of the main planks in Spanish media law is Act 25/1994 on the incorporation into Spanish law of the EC “Television without Frontiers” Directive.<sup>17</sup> This Act deals mainly with subjects that are not closely related to the protection of regional and minority languages, such as advertising or the protection of minors. However, there is an exception: Article 2.5 of this Act establishes that the provisions of this Act on the promotion of European works shall not apply to local television broadcasts not forming part of a national network, without prejudice to the right of the Autonomous Communities to set similar provisions in order to promote the use of their respective co-official languages by local television operators.<sup>18</sup>

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<sup>15</sup> The regional provisions on the creation of regional public broadcasters shall comply with the basic requirements established by national legislation in this field (in particular, the above-mentioned Act 4/1980 on the Statute on Radio and Television and Act 46/1983 of 26 December 1983 on the Third TV Channel, available at [http://www.noticias.juridicas.com/base\\_datos/Admin/146-1983.html](http://www.noticias.juridicas.com/base_datos/Admin/146-1983.html)).

On the creation of regional public broadcasters in some of the Autonomous Communities with co-official languages or protected dialects, see Act of the Basque Country 5/1982 of 20 May 1982; Catalan Act 10/1983 of 30 May 1983; Act of Valencia 7/1984 of 4 July 1984; Act of Galicia 9/1984 of 11 July 1984; Act of Baleares 7/1985 of 22 May 1985; Act of Navarra 16/1985 of 27 September 1985 and Act of Aragon 8/1987 of 15 April 1987. According to these Acts, the regional public broadcasters have the duty to use and promote the respective co-official languages or protected dialects.

<sup>16</sup> See the Forty-Fourth Additional Provision (Regulation of Digital Audio Broadcasting and Digital Terrestrial Television) of Act 66/1997 on taxation, administrative provisions and social affairs of 30 December 1997, available at [http://www.setsi.mcyt.es/legisla/radio\\_tv/da44.htm](http://www.setsi.mcyt.es/legisla/radio_tv/da44.htm). This Act has been implemented by the Decree 2169/1998, on the National Technical Plan on Digital Terrestrial Television (DTTV) of 9 October 1998, available at: [http://www.setsi.mcyt.es/legisla/radio\\_tv/rd216998.htm](http://www.setsi.mcyt.es/legisla/radio_tv/rd216998.htm). This provision initially identifies one regional multiplex in each Autonomous Community, which shall carry four DTTV programme services (with two of them having been reserved for the regional public broadcasters where applicable). According to the National Technical Plan on DTTV, frequencies will be reserved for up to three additional regional or local multiplexes and up to two additional local multiplexes.

<sup>17</sup> See the Spanish Act 25/1994 on the incorporation into Spanish law of the “Television without Frontiers” Directive, available at: [http://www.setsi.mcyt.es/legisla/radio\\_tv/ley25\\_94.htm](http://www.setsi.mcyt.es/legisla/radio_tv/ley25_94.htm) (as amended by Act 22/1999, available at [http://www.setsi.mcyt.es/legisla/radio\\_tv/ley22\\_99.htm](http://www.setsi.mcyt.es/legisla/radio_tv/ley22_99.htm) and Act 15/2001, available at [http://v2.vlex.com/es/asp/boe\\_detalle.asp?Articulo=13268](http://v2.vlex.com/es/asp/boe_detalle.asp?Articulo=13268)).

<sup>18</sup> This provision reads: “2.5 Chapter II [the promotion of the distribution and production of television programmes] shall not apply to television broadcasts that are intended for local audiences and do not form part of a national network. / However, the Autonomous Communities are allowed to approve provisions which are similar to those of Chapter II in order to promote audiovisual production in their own language, in those local television services which fall under their jurisdiction.”

#### LOCAL TERRESTRIAL TELEVISION ACT, 1995

Local terrestrial television is regulated by the Local Terrestrial Television Act of 1995.<sup>19</sup> According to this Act, local terrestrial television is a public service that may be provided by up to two concessionaires in each municipality. One of the two concessions available in each municipality is reserved for the local authorities. The second concession may be granted by the Autonomous Communities to natural persons. However, the Autonomous Communities have not been able to grant these concessions because the national government has not approved the Technical Plan on local terrestrial television yet. In the meantime, those local terrestrial television operators that were providing their services before January 1995 have been temporarily authorised to continue their activities until such time as the concessions are granted. Many operators which are not covered by this transitional measure are illegally providing these services as well.

#### DECREE 313/1996 OF NAVARRA; CATALAN DECREE 360/1996

The governments of the Autonomous Communities of Catalonia and Navarra have approved provisions dealing expressly with local terrestrial television,<sup>20</sup> which include among the concessionaires' obligations, the broadcasting of programme material in the co-official languages. Article 6(h) of Decree 313/1996 of Navarra<sup>21</sup> establishes that one of the principles which shall guide the activities of local terrestrial television concessionaires is the promotion and protection of the Basque language. Article 18 of the Decree states that one of the criteria that shall be taken into account when granting local terrestrial television concessions in Navarra shall be "the use and promotion of the Basque language". Catalan Decree 360/1996 includes similar provisions, although Catalan Act 1/1998 on linguistic policy does impose some specific quotas on the use of the co-official language by local terrestrial television concessionaires (at least 50% of the programmes produced by the television concessionaire and of the remaining "teleservices").<sup>22</sup>

#### CABLE TELECOMMUNICATIONS ACT, 1995

As regards cable television services, the 1995 Cable Telecommunications Act<sup>23</sup> divided the country into regional or local geographic areas. In each geographic area, up to two concessionaires were authorised to provide cable telecommunications services (cable television, Internet access, and voice communications). Those cable television programmes that are only broadcast within the territory of a single Autonomous Community shall comply with its legislation on the promotion of the co-official language, where applicable. Moreover, the Autonomous Community of Catalonia has approved an Act that expressly obliges Catalan

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<sup>19</sup> See Act 41/1995 on Local Terrestrial Television of 22 December 1995, available at: [http://www.setsi.mcvt.es/legisla/radio\\_tv/ley41\\_95/ley41\\_95.htm](http://www.setsi.mcvt.es/legisla/radio_tv/ley41_95/ley41_95.htm).

<sup>20</sup> At regional level, only four Autonomous Communities have already approved legal provisions implementing this national Act, two of them being among those with co-official languages: Navarra (Decree 313/1996 of 9 September 1996) and Catalonia (Catalan Decree 320/1996 of 1 October 1996, as amended by Catalan Decree 111/1998 of 12 May 1998).

<sup>21</sup> Available at: <http://www.cfnavarra.es/bon/969/96923001.htm>.

<sup>22</sup> Article 26 and Third Transitional Provision of Act 1/1998, available at: <http://www.gencat.es/leicat/eindex.htm>.

<sup>23</sup> See the Cable Telecommunications Act 42/1995 of 22 December 1995, available at [http://www.setsi.mcvt.es/legisla/cable/ley42\\_95.htm](http://www.setsi.mcvt.es/legisla/cable/ley42_95.htm).

cable operators to comply with additional requirements relating to the use of the co-official language.<sup>24</sup>

#### ACT 21/1997 ON THE BROADCASTING OF LISTED EVENTS

Another national provision relating to content regulation which also deals with co-official languages is Act 21/1997 on the broadcasting of listed events. This Act does not merely ensure that certain events of general interest will be broadcast free-to-air: it also sets out measures intended to guarantee that these events can be broadcast in all co-official languages.<sup>25</sup> The operative provision is Article 4.5, which reads: "Bearing in mind the need to take duly into account the different official languages of the state, it shall be possible to broadcast all of the listed sport competitions or events in the official language of the Autonomous Communities. If the holder of the television rights does not want to provide that service, it shall license, following competitive criteria, other programmers or broadcasters interested in doing so. The amount to be received by the rights holder shall be established following the criteria mentioned in paragraph 4 of this Article."

Concerning radio, stations may be operated by regional or local authorities or by private companies.<sup>26</sup> These radio broadcasters shall comply with regional sector-specific regulation,<sup>27</sup> which in some cases obliges them to comply with quotas for the broadcasting of programme material in the co-official language of the Autonomous Community in question.<sup>28</sup> Moreover, they have to comply with the regional provisions on the use and promotion of co-official languages.

The public authority in charge of enforcing the sector-specific provisions approved by the Autonomous Communities will be a department of the regional government or, in the case of Catalonia and Navarra, an independent audiovisual authority.<sup>29</sup> These two independent

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<sup>24</sup> Catalonia is the only Autonomous Community that has already implemented the national Act 42/1995 on cable telecommunications. See Catalan Act 8/1996 on the regulation of audiovisual programming broadcast by cable of 5 July 1996, as amended by Catalan Act 2/2000 of 4 May 2000. See also Catalan Decree 265/1997 of 17 October 1997. As regards the quotas on the use of Catalan by cable operators, see Article 7 of Catalan Act 8/1996 and also Article 26.1 of Catalan Act 1/1998 on linguistic policy.

<sup>25</sup> See Article 4.5 of Act 21/1997 on the broadcasting of listed events of 3 July 1997, available at: [http://www.noticias.juridicas.com/base\\_datos/Admin/121-1997.html](http://www.noticias.juridicas.com/base_datos/Admin/121-1997.html).

<sup>26</sup> On the provision of radio services, see, at the national level, Act 4/1980 on the Statute of Radio and Television; the Sixth Additional Provision of Act 31/1987 on Telecommunications of 18 December 1987; Act 11/1991 on the organisation and control of radio broadcasters controlled by the local authorities, 8 April 1991 ([http://www.setsi.mcyt.es/legisla/radio\\_tv/lev11\\_91.htm](http://www.setsi.mcyt.es/legisla/radio_tv/lev11_91.htm)) and the Forty-Fourth Additional Provision (Regulation of Digital Audio Broadcasting and Digital Terrestrial Television) of Act 66/1997 on taxation, administrative provisions and social affairs of 30 December 1997, available at: [http://www.setsi.mcyt.es/legisla/radio\\_tv/da44.htm](http://www.setsi.mcyt.es/legisla/radio_tv/da44.htm).

<sup>27</sup> At the regional level, see above the regional Acts on the creation of regional public broadcasters and see also the provisions relating to radio approved by those Autonomous Communities with co-official languages or protected dialects: Catalan Decrees 263/1990 of 23 October 1993 and 269/1998 of 21 October 1999; Decrees of Galicia 52/1986 of 6 March 1986 and 156/1989 of 27 July 1989; Basque Decrees 240/1986 of 11 November 1986 and 138/1994 of 22 March 1994; Decrees of Valencia 38/1998 of 31 March 1998 and 175/1999 of 5 October 1999; Decree of Navarra 431/1992 of 21 December 1992; Decrees of Baleares 86/1995 of 7 September 1995 and 62/1997 of 7 May 1997; Decree of Aragon 15/1997 of 25 February 1997; and Decrees of Asturias 31/1997 of 15 May 1997 and 53/1998 of 13 August 1998. Nearly all of these provisions deal with the awarding of FM radio concessions.

<sup>28</sup> See, for example, Article 6.f) and the First Transitional Provision of Catalan Decree 269/1998. These articles implement Article 26.3 of Catalan Act 1/1998 on linguistic policy.

<sup>29</sup> See Catalan Act 2/2000 of 4 May 2000 on the creation of the *Consell de l'Audiovisual de Catalunya* (<http://www.audiovisualcat.net/box32esp.html>) and Act of Navarra 18/2001 of 5 July 2001, on the regulation of

authorities have been expressly mandated to ensure the application of the legal provisions relating to the use and promotion of co-official languages.<sup>30</sup>

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the audiovisual sector in Navarra and on the creation of the *Consejo Audiovisual de Navarra* (<http://www.cfnavarra.es/bon/017/01716004.htm>).

<sup>30</sup> See Article 10.e) of Catalan Act 2/2000 and Article 26.1.1) of Act of Navarra 18/2001.

## Sweden

While minority rights are recognised in the Swedish Constitution, it is a Government Bill, introduced in 1999, that fully fleshes out evolving policies in this regard. Existing legislation provides for the protection of three national minority languages in particular: Saami/Lappish, Finnish, and Meänkieli/Tornedalian Finnish. Although the Swedish Parliament has recognised sign language as the mother tongue of the deaf, it has yet to gain full recognition as a minority language as such. Minority languages are not, however, alluded to in the main legislation governing broadcasting. The Government has decided on terms for the use of minority languages in the broadcasting licences of the public service broadcasters. It has been decided that under the new licences, Romani Chib shall have the same status in programming as Sami, Finnish and Meänkieli have today.

Public service broadcasting already has special responsibilities relating to programming for linguistic minorities. Public service radio broadcasts in 20 languages: Swedish, four minority languages, ten immigrant languages, and five foreign languages. There is a special channel for Finnish and Meänkieli. It has responsibility for the provision of national, regional and local programmes in these languages and a significant part of its output is transmitted by digital radio. Another nationwide radio channel, based in the north of Sweden, broadcasts in the Sami language. This year, broadcasting in Romany commenced, but there are no programmes in Yiddish yet. Another special channel broadcasts in the languages of ten different groups of immigrants and five foreign languages. Public service television broadcasts programmes in Finnish and Saami and also in sign language. The dominant *lingua franca* of the public service television broadcaster remains Swedish. Transborder cooperation initiatives guarantee a larger offer of programmes in certain minority languages, most notably Finnish and Saami.

## 1 Introduction

### 1.1 Linguistic topography<sup>1</sup>

Swedish is the mother tongue of nine million people. It is the dominant language in Sweden and is also a national language in Finland. Although Swedish is the dominant language in Sweden, many other languages are also spoken in the country. Sweden's ethnic and cultural diversity has a long history. Many of the groups that have long been minorities in Sweden have worked actively to preserve their culture and language. In this country report, the following terms are used:

\* The five (recognised) national minority languages:

- Saami/Lappish
- Finnish
- Meänkieli/Tornedalian Finnish
- Yiddish
- Romany/Romani Chib

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<sup>1</sup> See also: Appendix 1 – 'Sweden's five national minorities', Swedish Report to the Council of Europe on the Framework Convention for the Protection of National Minorities, submitted in accordance with Article 25, paragraph 1, of the Framework Convention, available at: <http://www.humanrights.coe.int/Minorities/Eng/FrameworkConvention/StateReports/2001/sweden/Sweden.htm>.

\* Sign language: mother tongue of the deaf.<sup>2</sup>

\* Immigrant languages: about 200 different languages are spoken in Sweden.

In Sweden, there are no official statistics on the use of languages or the number of speakers of each. All estimates of the number of speakers are therefore rather unreliable. The Swedish Language Committee<sup>3</sup> estimates the numbers of speakers of the national minority languages as follows:<sup>4</sup>

- Saami: approximately 9,000 speakers
- Finnish: approximately 70,000 – 90,000 speakers
- Meänkieli: approximately 50,000 – 60,000 speakers
- Romany: information not available
- Yiddish: approximately 3,000 speakers

## 1.2 Broadcasting<sup>5</sup>

The national public service broadcasting companies provide programmes in different languages, primarily Swedish, Saami, Finnish and sign language. Programmes in different languages are also broadcast on local radio stations. In a Bill on Public Service Broadcasting, the Government has stressed that the public service companies have a responsibility for the national minorities in Sweden. The companies have to pay attention to the interests of the minorities and especially to the Saami, Finnish, Meänkieli and Romany languages.<sup>6</sup>

## 2 Constitution

### 2.1 Freedom of expression

Freedom of expression is firmly established in the Swedish Constitution, which consists of four parts:<sup>7</sup>

- the Instrument of Government (1974) is the most important part of the Constitution. It contains the basic rules on governance and democracy (eg. equality of all citizens and freedom of expression).<sup>8</sup>
- the Freedom of the Press Act (1949) regulates freedom of expression in the print media (newspapers, books, etc.).<sup>9</sup>
- the Fundamental Law on Freedom of Expression (1991) protects freedom of expression in radio, television, films and videos, etc.<sup>10</sup>

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<sup>2</sup> For further information (in English), see the website of the Department of Sign Language at Stockholm University: <http://www.ling.su.se/tsp/>.

<sup>3</sup> See further the website of the Swedish Language Committee (in Swedish): <http://www.sou.gov.se/svenskan/>.

<sup>4</sup> Action Plan for the Swedish Language (*Mål i mun. Förslag till handlingsprogram för svenska språket*. SOU 2002:27).

<sup>5</sup> For further information about radio and television in Sweden (in English), see: <http://www.rtvv.se/english/index.htm>

<sup>6</sup> Government Bill on Public Service Broadcasting (*Radio och TV i allmänhetens tjänst 2002–2005*, prop. 2000/01:94).

<sup>7</sup> The Instrument of Government (*Regeringsformen*, 1998:1437), the Act of Succession (*Successionsordningen*), the Freedom of the Press Act (*Tryckfrihetsförordningen*, 1949:105) and the Fundamental Law on Freedom of Expression (*Yttrandefrihetsgrundlagen*, 1991:1469), all available at: <http://www.riksdagen.se/english/work/constitution.asp>.

<sup>8</sup> Available at: <http://www.riksdagen.se/english/work/fundamental/government/index.htm>.

<sup>9</sup> Available at: <http://www.riksdagen.se/english/work/fundamental/press/index.htm>.

- the Act of Succession (1810).<sup>11</sup>

According to Article 1 of the Fundamental Law on Freedom of Expression, every Swedish citizen has the right to express his or her thoughts, opinions and feelings by means of radio, television, films, etc. There is no regulation of language. Article 3 prohibits censorship. Freedom of the media and the right to express one's opinion on radio and television, etc. is also affirmed in the Freedom of the Press Act.

#### FUNDAMENTAL LAW ON FREEDOM OF EXPRESSION 1991

##### Article 1

Every Swedish citizen shall be guaranteed the right under this Fundamental Law, vis-à-vis the public institutions, publicly to express his ideas, opinions and sentiments on sound radio, television and certain like transmissions, films, videograms, sound recordings and other technical recordings, and in general communicate information on any subject whatsoever.

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. No restriction of this freedom shall be permitted other than such as follows from this Fundamental Law.

References in this Fundamental Law to radio programmes shall apply also to television programmes and to the content of certain other transmissions of sound, pictures and text made using electromagnetic waves, as well as to sound radio programmes.

Technical recordings shall be understood in this Fundamental Law to mean recordings containing text, pictures or sound which may be read, listened to or otherwise comprehended only using technical aids.

##### Article 2

Every Swedish citizen shall be guaranteed the right to communicate information on any subject whatsoever to authors or other originators, editors, editorial offices, news agencies and enterprises for the production of technical recordings for publication in radio programmes, or such recordings. He shall also have the right to procure information on any subject whatsoever for such communication or publication. No restriction of these rights shall be permitted other than such as follows from this Fundamental Law.

##### Article 3

There shall be no obligatory prior scrutiny by a public authority or other public body of matter which is intended for publication in a radio programme or technical recording.

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<sup>10</sup> Available at: <http://www.riksdagen.se/english/work/fundamental/expression/index.htm>.

<sup>11</sup> Available at: <http://www.riksdagen.se/english/work/succession.asp>.

[...]

## 2.2 Minority rights

Minority rights are referred to in Article 2.4 of the Instrument of Government:

Opportunities should be promoted for ethnic, linguistic and religious minorities to preserve and develop a cultural and social life of their own.

## 2.3 (Official/State) language(s)

No part of the Constitution deals with the question of an official language of Sweden. This question is now under consideration (see *infra*).

# 3 Legislation<sup>12</sup>

## 3.1 General legislation affecting minorities and their linguistic rights

In a Government Bill from June 1999, the Government presented its proposals for a concerted Swedish minorities policy for the protection of national minorities in Sweden.<sup>13</sup> A number of measures were proposed by the Government aimed at improving the situation for the national minorities and giving their languages the support necessary for their survival. Five minority languages were recognised as national, official minority languages. The Government proposed that Sweden ratify the Council of Europe's Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages (it has since done so in respect of both treaties). This Bill was subsequently passed by the Swedish Parliament.

The goal of the Minorities Policy is to protect the national minorities and to strengthen their ability to influence and to support the historical minority languages so that they can be kept alive.

The Swedish Parliament has also adopted two laws for the protection of three of the national minority languages (Saami/Lappish, Finnish and Meänkieli/Tornedalian Finnish): The Minority Acts (lag 1999:1175 and 1999:1176). These laws deal with the right of individuals in some municipalities<sup>14</sup> in the north of Sweden to use these languages in their dealings with administrative authorities and courts of law. According to these laws, individuals also have the right to obtain pre-school activities (childcare) and geriatric care in these languages.

The official status of sign language in Sweden is rather unclear. It has been used by the deaf since 1875. The Swedish Parliament has recognised sign language as the mother tongue of the deaf.<sup>15</sup> Sign language has not yet been recognised as a minority language. The Parliament

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<sup>12</sup> Legislation, Government Bills, etc. are available on the website of the Swedish Parliament (in Swedish): [http://www.riksdagen.se/debatt/lagar\\_forordningar.asp](http://www.riksdagen.se/debatt/lagar_forordningar.asp).

<sup>13</sup> The Government Bill National Minorities in Sweden (*Nationella minoriteter i Sverige*, prop. 1998/99:143). This Bill was based on the State Committee Report, 'Towards a minorities policy' (*Steg mot en minoritetspolitik*, SOU 1997:192).

<sup>14</sup> *Saami/Lappish*: The municipalities of Arjeplog, Gällivare, Jokkmokk and Kiruna. *Finnish and Meänkieli/Tornedalian Finnish*: The municipalities of Gällivare, Haparanda, Kiruna, Pajala and Övertorneå.

<sup>15</sup> Government Bill on the State Budget (*Budgetpropositionen*, prop 1980/81:100, annex 12); Parliamentary Report (Betänkande UbU 1980/81:25).

has, however, approved a request to the Government to make an investigation about the status and standing of the sign language.<sup>16</sup>

### 3.2 Broadcasting legislation<sup>17</sup> and practice

The Radio and Television Act regulates questions on broadcasting in Sweden.<sup>18</sup> In Article 6:1, the principles of democracy and equality are stressed:

A person or entity that broadcasts television or sound radio programmes under a licence issued by the government is to ensure that the overall programme services reflect the fundamental concepts of a democratic society and the principle that all persons are of equal value, and the freedom and dignity of the individual.

According to Article 6:8:

Television broadcasts in accordance with the first paragraph, and sound radio broadcasts which take place under a licence issued by the government, are to contain a considerable proportion of programmes in the Swedish language, programmes with Swedish artists, and works by Swedish authors, unless there are special reasons to the contrary.

The purpose of this Article is to protect Swedish culture, not to discriminate against those of foreign origin. Minority languages are not mentioned in this Act.

When the Government presented its Bill on National Minorities, it stated:

When considering new broadcasting licences for the public service broadcasters, Swedish Television, the Swedish Broadcasting Company and the Swedish Educational Broadcasting Company, the Government intends to raise the issue of affording Romani Chib the same status in programming as Saami, Finnish and Meänkieli have today.<sup>19</sup>

The Government and the Parliament have decided that public service broadcasting has a special responsibility when it comes to producing programmes for the linguistic minorities.<sup>20</sup> The five national minority languages have a special status. There are special reasons for providing programming in four minority languages: Saami (the Saami people are an original population); Finnish (historical relations between Sweden and Finland, as well as the large number of Finnish-speaking people in Sweden); Meänkieli (a part of the native population of

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<sup>16</sup> Parliamentary Report (Betänkande 2000/01:KU14).

<sup>17</sup> See also, 'Developments in the Media Field, 2000', available at: <http://www.rtvv.se/english/pdf/develop.pdf>.

<sup>18</sup> The Radio and Television Act (*Radio- och TV-lagen* 1996:844), available at: <http://www.rtvv.se/english/pdf/rtvact.pdf>.

<sup>19</sup> 'National minorities in Sweden', Factsheet, Ministry of Culture, June 1999, available at: [http://naring.regeringen.se/pressinfo/faktablad/PDF/ku99\\_023e.pdf](http://naring.regeringen.se/pressinfo/faktablad/PDF/ku99_023e.pdf).

<sup>20</sup> Government Bill on Public Service Broadcasting (*Radio och TV i allmänhetens tjänst*, prop. 2000/01:94), available at: [http://rixlex.riksdagen.se/htbin/thw?%24%7BHTML%7D=PROP\\_LST&%24%7BHTML%7D=PROP\\_DO&%24%7BHTML%7D=PROP\\_ERR&%24%7BHTML%7D=PROP\\_MAXPAGE%7D=26&%24%7BHTML%7D=define+reverse&%24%7BHTML%7D=format%3DTHW&%24%7BHTML%7D=PROPARKIV0001&%24%7BHTML%7D=EXT%7D&PRUB=&DOK=&PNR=94&ORG=](http://rixlex.riksdagen.se/htbin/thw?%24%7BHTML%7D=PROP_LST&%24%7BHTML%7D=PROP_DO&%24%7BHTML%7D=PROP_ERR&%24%7BHTML%7D=PROP_MAXPAGE%7D=26&%24%7BHTML%7D=define+reverse&%24%7BHTML%7D=format%3DTHW&%24%7BHTML%7D=PROPARKIV0001&%24%7BHTML%7D=EXT%7D&PRUB=&DOK=&PNR=94&ORG=). See also the relevant Parliamentary Report (Betänkande 2000/01:KrU8).

Sweden for whom the language is important for their own identity) and Romany Chib (the Romany people have been in Sweden for a long time).

Under the broadcasting licences of the public service companies, they are required to pay attention to the interests of linguistic minorities.<sup>21</sup> There are three public service broadcasting companies in Sweden:

1. Swedish Broadcasting Company (*Sveriges Radio, SR*)<sup>22</sup>
2. Swedish Television Company (*Sveriges Television, SVT*)<sup>23</sup>
3. Swedish Educational Broadcasting Company (*Sveriges Utbildningsradio, UR*)<sup>24</sup>

According to the broadcasting licences of SVT, SR and UR, the efforts of the public service companies as regards minority languages will increase in the period 2002-2005 (compared with the year 2001).<sup>25</sup> It should be noted that there are not provisions concerning minority-language questions in the broadcasting licence for TV4 or other (private-sector) broadcasting companies.

### 3.2.1 Radio

*Sveriges Radio* is a public service company which broadcasts in 20 languages (Swedish, four minority languages, ten immigrant languages, and five foreign languages). SR has special channels for Finnish and Meänkieli, Saami and immigrant languages.

*Finnish and Meänkieli*: A special channel—*SR Sisuradio*—is responsible for national, regional and local programmes in Finnish and Meänkieli. This channel is located in the north of Sweden (Luleå). In the year 2000, 5,452 hours were transmitted (3,173 of which in digital radio).

*Saami*: The *SR Sameradio* has its editorial staff in the north of Sweden (Kiruna). The programmes are transmitted to all parts of Sweden, both in the Saami language and in Swedish. In the year 2000, 204 hours were transmitted in Saami.

This year, the SR has started to broadcast in Romany. There are no programmes in Yiddish. A special channel—P6 Radio Sweden International—has programmes in ten different immigrant languages and five foreign languages. In the year 2000, 624 hours in the different immigrant languages were transmitted.

### 3.2.2 Television

The public service company for television, *Sveriges Television* (SVT), has programmes in some of the national minority languages:

- Finnish (107 hours in the year 2000)

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<sup>21</sup> Decision by the Government (*Tillstånd att sända television, Regeringsbeslut 2001-12-20, Ku2001/1543/Me*), available at: [http://www.svt.se/svtinfo/publicservice/lagar/011220-svt\\_tillst2002-2005.pdf](http://www.svt.se/svtinfo/publicservice/lagar/011220-svt_tillst2002-2005.pdf).

<sup>22</sup> See further the website of *Sveriges Radio* (in English): <http://www.sr.se/omsr/english/>.

<sup>23</sup> See further the website of *Sveriges Television* (in English): <http://www.svt.se/inenglish/>.

<sup>24</sup> See further the website of *Sveriges Utbildningsradio* (in English): <http://www.ur.se/ur/frameset.html>.

<sup>25</sup> Decision by the Government (Ku 2001/1543/Me), *op. cit.*

- Saami (17 hours in the year 2000). In August 2001, daily television news in Saami started (in cooperation with NRK of Norway and YLE of Finland).

In the same year, SVT (*Dövas TV*) had 74 hours of programmes in sign language.

As a result of a cooperation between Sweden and Finland, Finnish television can be seen in Stockholm and in 25 other cities in Sweden.

#### 4 Other measures affecting language

In addition to legislation, the various state measures for minorities and minority languages, immigrant languages and sign language are also worthy of mention. As regards language cultivation and planning: the Saami Parliament (*Sametinget*)<sup>26</sup> is responsible for the cultivation and planning of the Saami language.<sup>27</sup> The Government gives grants to the Finnish Language Council in Sweden (*Sverigefinska språknämnden*) for language cultivation and planning of Finnish.<sup>28</sup> The Government also gives grants to an organisation for the deaf (*Sveriges Dövas Riksförbund*) for the development of sign language.

In the educational sector, frameworks are in place for mother-tongue instruction;<sup>29</sup> bilingual education<sup>30</sup> and furthermore, the national curricula of the state primary and secondary schools; pre-schools and after-school centres and independent schools<sup>31</sup> have been amended to include the provision of information about national minorities and regional and minority languages.

As far as culture is concerned, the Swedish National Council for Cultural Affairs (*Statens kulturråd*) is responsible for implementing national cultural policy determined by the Government and Parliament. The Council gives annual grants to different projects regarding culture and minority languages.

<sup>26</sup> See further the website of the Saami Parliament (in Swedish): <http://www.sametinget.se/st/index.html>.

<sup>27</sup> The Saami Parliament Act (*Sametingslagen* 1992:1433).

<sup>28</sup> For further information, see the website of the Finnish Language Council in Sweden (in Finnish and Swedish): <http://www.spraknamnden.se/sverigefinska.htm>.

<sup>29</sup> The children of parents who speak languages other than Swedish shall be offered mother-tongue instruction. There are, however, some restrictions; the most important ones being that there have to be at least five pupils who request teaching in each language and that the school is obliged to arrange for such instruction only if it is possible to find a teacher. For some of the minority languages (Saami, Meänkieli, and Romany), mother-tongue instruction must be offered also if fewer than five pupils wish to have such mother-tongue instruction. See further: the Government Ordinances 1994:1194 (*Grundskoleförordningen*) and 1992:394 (*Gymnasieförordningen*).

<sup>30</sup> Parts of the teaching for the first six years in school can be given in a language other than Swedish if this other language is the mother tongue of the pupils. For the education of Saami pupils, there are six schools in the north of Sweden for Saami children, offering education for the first six years. For Finnish-speaking pupils, bilingual instruction can be given for the first nine years in schools.

<sup>31</sup> See respectively: *Läroplan för det obligatoriska skolväsendet* (Lpo94):

<http://www.skolverket.se/english/index.shtml>; *Läroplan för förskolan* (Lpfö98):

<http://www.skolverket.se/english/index.shtml>; *Läroplan för de frivilliga skolformerna* (Lpf94):

<http://www.skolverket.se/english/index.shtml>. As an example of a state measure in the educational area, it could be mentioned that the National Agency for Education (*Skolverket*) has begun to promote the production of teaching media in Romany.

## 5 Current developments

In October 2000, the Government decided that a parliamentary committee should draw up an action plan for the Swedish language—the Swedish Language Committee (*Kommittén för svenska språket*). The Action Plan was presented in April 2002 and contains a number of different proposals.<sup>32</sup> The Committee has stressed that Sweden is a multilingual society and that the different languages are of great importance both for society as a whole and for individuals.

The Committee has proposed that Government and Parliament shall decide on goals for a national language policy. One of the proposed goals is that all shall have the right to languages: the respective mother tongue, Swedish and foreign languages.

To achieve these goals, the Committee has several suggestions for the promotion of both Swedish and other languages in Sweden. Some of these proposals deal with minority languages and the broadcasting media:

- The provision of radio and television programmes in minority languages shall increase. It is important that there are journalists who speak the different minority languages.
- The provision of radio and television programmes in immigrant languages ought to rise. It is important that immigrants can obtain information about Sweden in their own languages. Programmes in Swedish should to a larger extent have subtitles in minority and immigrant languages.
- Local broadcasting for national minorities and immigrants shall be given State support.

The Committee has also proposed a Language Act to the Government. According to this proposed law, Swedish shall be the official language of Sweden.

The Committee has proposed that a State agency (*Sveriges språkråd*) for language planning and cultivation shall be formed. This agency shall also be responsible for parts of the planning and cultivation of the minority languages and sign language.

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<sup>32</sup> The Committee Report Action Plan for the Swedish Language (*Mål i mun. Förslag till handlingsprogram för svenska språket*, SOU 2002:27). An English summary of the Draft Action Plan for the Swedish language is now available on the website of the Swedish Government: <http://kultur.regeringen.se/propositionermm/sou/pdf/engelska.pdf>.

## Switzerland

Four languages enjoy the status of national languages in Switzerland: German, French, Italian and Romansh, but only the first three are also official languages of the Confederation (although use of the fourth is widespread in administration). Each of the 26 Cantons is free to designate any language spoken on its territory as official for internal purposes. The Swiss Constitution sets out a number of objectives to be fulfilled by the whole system of radio and television broadcasting (in contradistinction to any individual broadcaster). These objectives include education, cultural development, entertainment, diversity of opinion, factual and balanced presentations, etc., and are essentially replicated in the main piece of Federal legislation on broadcasting, which applies to public and private broadcasting alike. Each Canton is entitled to legislate in relation to minority rights, on condition that the legislation complies with the Constitution. The Confederation only intervenes by default, when such competences are delegated to it by the Cantons.

Aside from the exhaustive legislative provisions adopted by the individual Cantons concerning minorities and language-usage, the Confederation does subsidise schemes aiming to preserve and promote the Italian and Romansh languages and cultures. While the relevant legislation does not impose quotas on broadcasters, more specific obligations may be negotiated on a case-by-case basis in the licences granted to individual broadcasters. Regional and local broadcasters are obliged to ensure the suitability of their programming to the specificities of the communities they serve; thereby reflecting the requisite *couleur locale* to an appropriate degree and promoting regional or local cultural activities.

The public service broadcaster is obliged by statute to transmit custom-made radio programmes for each of the national languages of Switzerland. It must do the same with television programmes for each of the official languages of the Confederation. As regards television programmes in Romansh, the relevant requirements and underlying principles for such broadcasting must first be determined by the Federal Council. In practice, a number of national radio stations do broadcast in German, French and Italian, but only one in Romansh. Selected national television stations also broadcast in the three official languages, whereas television broadcasting in Romansh is limited to individual programmes.

## 1 Introduction

### 1.1 Linguistic topography

Despite a small population of barely over seven million people, Switzerland has four national languages, namely German (declared as their “main language”, in the standard or dialectal form, by 63.6% of the resident population), French (19.2%), Italian (7.6%) and Romansh (0.6%), according to 1990 Federal Census returns. Accordingly, 9% of the resident population claims a non-national language as their main language.<sup>1</sup> Provisional figures for the 2000 Census released by *Statistik Schweiz – Bundesamt für Statistik* (the Swiss Federation’s

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<sup>1</sup> Grin, François, “Language Policy in Multilingual Switzerland: Overview and Recent Developments”, Paper presented at the *Cicle de conferències sobre política lingüística Direcció general de política lingüística*, Barcelona, 1998. According to the (provisional) figures from the 2000 Census, 63.9% of the Swiss population speaks German; 19.5%, French; 6.6%, Italian; 0.5%, Romansh and 9.5%, others.

Statistics Office) indicate the following break-down for language use: German, 63.9%; French, 19.5%; Italian, 6.6%; Romansh, 0.5% and others, 9.5%.<sup>2</sup>

The majority of the population (three out of four Swiss) lives in German-speaking Switzerland. German is spoken in 17 of the 26 Cantons. In the western part of the country, the 'Suisse Romande', French is spoken. Four Cantons are French-speaking: Geneva, Jura, Neuchâtel and Vaud. Three Cantons are bilingual: In Bern, Fribourg and Valais, both French and German are spoken. Italian is spoken in Ticino and in four southern valleys of Grisons. The Canton of Grisons is trilingual, with German, Italian and Rhaeto-Rumantsch (Romansh). Romansh, like Italian and French, is a language with Latin roots.<sup>3</sup>

Switzerland's four (national) languages are by no means fully homogeneous, but instead display a whole host of variations. The language spoken in German-speaking Switzerland, for example, is quite different from standard German—called High German—as spoken in Germany. The German Swiss speak Swiss German, which is itself broken up into numerous local dialects. In Switzerland, High German is first and foremost a written language, which Swiss German children have to learn at school. All lessons are taught in it and it is the language of newspapers and magazines and most books. It is also widely used in the media.

Language rights are enshrined in the Swiss Constitution. German, French, Italian and Romansh all have the status of national languages, but only the first three are official languages. Nevertheless, Romansh is used in official communications with Romansh speakers, who in turn have the right to use their native language in addressing the central authorities. The Constitution also contains provisions to enable the federal authorities to help Ticino and Grisons support Italian and Romansh respectively.

## 1.2 Broadcasting

Responsibility for broadcasting in Switzerland is shared by three agencies at three different levels of government: the Federal Council grants broadcasting licences for regional-language, national and international programmes and adopts directives on the development of broadcasting network plans. The Federal Department of the Environment, Transport, Energy and Communications (DETEC) issues broadcasting licences for local and regional programmes and is responsible for the financial supervision of the public service provider (the Swiss Radio and Television Broadcasting Company, SSR). The Federal Office for Communications (OFCOM) grants short-term broadcasting licences not exceeding 30 days per year for radio and television programmes (short-term broadcasts) and for short-term trials of new technologies. It grants licences for retransmission (cable or terrestrial broadcasts). It establishes transmitter network plans for terrestrial broadcasting in accordance with Federal Council guidelines and submits them to the latter for approval. OFCOM is responsible for frequency allocation and spectrum management. It administers the cable network survey.

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<sup>2</sup> See further: <http://www.statistik.admin.ch>.

<sup>3</sup> For further information, see: Schläpfer, Robert, et al., *Die viersprachige Schweiz* (Zürich, Benziger Verlag, 1982); Département fédéral de l'intérieur, *Le quadrilinguisme en Suisse—présent et futur. Analyse, propositions et recommandations d'un groupe de travail du Département fédéral de l'intérieur* (Berne, Chancellerie fédérale, 1989); Lüdi, Georges, Werlen, Iwar and BIANCONI, Sandro, *Sprachlandschaft Schweiz* (Berne, Office fédéral de la statistique, 1997); Matthey, Marinette, and De Pietro, Jean-François, "La société plurilingue: utopie souhaitable ou domination acceptée?", in Boyer, H. (ed.), *Plurilinguisme: "contact" ou "conflit" de langues?* (Paris, L'Harmattan, 1997), at pp. 133-190.

In its programming, the public service provider, SSR, is required to broadcast selected radio and television programmes in German, French and Italian: there is one radio programme in Romansh. There are only selected television broadcasts in this language, but no specific programming. The SSR's programming must take into account the specific nature of the country and the needs of the Cantons, in particular it must contribute: to public cultural development, notably by including Swiss production wherever possible; and to the free development of public opinion, in particular by adopting a reliable information policy that gives priority to events of national interest or events relating to the linguistic region concerned. In its television programming, the SSR must include Swiss audiovisual production and European productions. There are also special obligations for local and regional broadcasters (see further, Section 3.2, *infra*).

## 2 Constitution

The Federal Constitution of the Swiss Confederation of 18 April 1999,<sup>4</sup> is the fundamental source of law in Switzerland. The Federal Constitution grants the freedom of all languages spoken in Switzerland (Article 18). Articles 4 and 70 enumerate the four national languages and the three official languages used in Switzerland. It is up to the 26 different Cantons in Switzerland to designate their official languages in their territory, but they have to respect the traditional territorial distribution of languages and take into account the indigenous linguistic minorities.

### 2.1 Freedom of expression

Article 16 Freedom of Opinion and Information

- 1 The freedom of opinion and information is guaranteed.
- 2 All persons have the right to form, express, and disseminate their opinions freely.
- 3 All persons have the right to receive information freely, to gather it from generally accessible sources, and to disseminate it.

Article 17 Freedom of the Media

- 1 The freedom of the press, radio and television, and of other forms of public telecasting of productions and information is guaranteed.
- 2 Censorship is prohibited.
- 3 Editorial secrecy is guaranteed.

Article 18 Freedom of Language<sup>5</sup>

The freedom of language is guaranteed.

### 2.2 Broadcasting

The constitutional basis for radio and television broadcasting is Article 93. This Article also sets out the mandate for radio and television in Switzerland in general. Individual

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<sup>4</sup> Available at: <http://www.admin.ch/ch/fr/rs/101/index.html> (DE, FR, IT).

<sup>5</sup> Language freedom implies the right for residents to use any language of their choice in the private sphere, which includes the language of business and commerce (see *infra*).

broadcasters are not required to fulfil these obligations on their own, but the whole system of radio and television should do so. The public service provider SSR has special obligations.<sup>6</sup>

#### Article 93 Radio and Television

1 Legislation on radio and television and other forms of public telecasting of features and information is a federal matter.

2 Radio and Television shall contribute to education and cultural development, to the free formation of opinion, and to the entertainment of the listeners and viewers. They shall take into account the particularities of the country and the needs of the Cantons. They shall present events factually, and reflect diverse opinions fairly and adequately.

3 The independence of radio and television and the autonomy of their programming are guaranteed.

4 The situation and the role of other media, in particular the press, shall be taken into account.

5 It shall be possible to submit complaints about programs to an independent authority.

### 2.3 (Official/State) language(s)

#### Article 4 National Languages

The national languages are German, French, Italian, and Romansh.

#### Article 70 Languages

1 The official languages of the Confederation are German, French, and Italian. Romansh shall be an official language for communicating with persons of Romansh language.

2 The Cantons shall designate their official languages. In order to preserve harmony between linguistic communities, they shall respect the traditional territorial distribution of languages, and take into account the indigenous linguistic minorities.

3 The Confederation and the Cantons shall encourage understanding and exchange between the linguistic communities.

4 The Confederation shall support the plurilingual Cantons in the fulfillment of their particular tasks.

5 The Confederation shall support the measures taken by the Cantons of Grisons and Ticino to maintain and to promote Romansh and Italian.

## 3 Legislation

### 3.1 General legislation affecting minorities and their linguistic rights

Due to the federalism in Switzerland, each of the 26 Cantons has the right to legislate in matters affecting minorities and their linguistic rights as long as this legislation respects the constitutional provisions.<sup>7</sup> Sovereignty therefore rests with the Cantons, which only delegate some areas of competence to the Confederation. By implication, as long as a given competence is not explicitly assigned to the federal government by the Constitution, it

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<sup>6</sup> See the section entitled 'Legislation'.

<sup>7</sup> Especially Articles 17, 18 and 70 of the Federal Constitution of the Swiss Confederation.

remains within the purview of Cantons. One direct result is that there is practically no federal-level language policy. Another important result is that if a competence belongs to the Cantons, the administrative acts flowing from this competence will take place in the respective official language of each individual Canton.<sup>8</sup> In bilingual Cantons, the cantonal authorities will normally use one language *or* the other (but not both) for the local provision of services (such as education), following the linguistic boundary. In the case of the trilingual Canton of Grischun/Graubünden/Grigioni, the choice of official language has been devolved from the cantonal to the communal authorities and language policy is defined at the level of the smallest political unit.<sup>9</sup>

It would be beyond the scope of this survey to quote the legislation of all these Cantons.

Notwithstanding the constitutional provisions and legislation of each Canton, there is national legislation on the granting of financial aid for the preservation and development of the Romansh and Italian languages and cultures.<sup>10</sup>

### 3.2 Broadcasting legislation

THE FEDERAL RADIO AND TELEVISION ACT OF 21 JUNE 1991

The Federal Radio and Television Act of 21 June 1991 (LRTV),<sup>11</sup> requires that all broadcasting (radio and television) take into account the diversity of the country and its population; promote Swiss artistic creation; encourage listeners and viewers to participate in cultural life; give preference to Swiss audiovisual productions, notably Swiss cinema, and include European productions, wherever possible (Article 3, LRTV).

#### Article 3. Mandate

1. In general, radio and television shall:

- (a) contribute towards the free formation of public opinion and provide listeners and viewers with diversified and objective general information for their education and entertainment, and impart public knowledge;
- (b) take account of the diversity of the country and its population and portray this to the general public, and promote an understanding of other nations;
- (c) promote Swiss culture and stimulate listeners and viewers to participate in cultural life;
- (d) facilitate contacts with Swiss living abroad and promote the presence of Switzerland abroad and an understanding of the country's affairs;
- (e) take special account of Swiss audio-visual production and particularly films;
- (f) take account as far as possible of European productions.

2. The overall range of programmes in any one supply area shall not be unduly biased towards specific parties, lobbies or ideologies.

3. The different regions of the country must be provided with a sufficient range of radio and television programmes.

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<sup>8</sup> Grin, F., *op. cit.*

<sup>9</sup> Grin, F., *ibid.*

<sup>10</sup> [Bundesgesetz vom 6. Oktober 1995 über Finanzhilfen für die Erhaltung und Förderung der rätoromanischen und der italienischen Sprache und Kultur](http://www.admin.ch/ch/d/sr/c441_3.html) ([http://www.admin.ch/ch/d/sr/c441\\_3.html](http://www.admin.ch/ch/d/sr/c441_3.html)).

<sup>11</sup> Available at [http://www.admin.ch/ch/d/sr/c784\\_40.html](http://www.admin.ch/ch/d/sr/c784_40.html) (DE) and at [http://www.admin.ch/ch/f/rs/c784\\_40.html](http://www.admin.ch/ch/f/rs/c784_40.html) (FR).

The Act does not provide for quotas as such but more specific obligations may be negotiated on a case-by-case basis in the licences granted to broadcasters.

Local and regional broadcasters must ensure that the domestically produced content of their programmes is adequate and adapted to the specific features of the area covered (including the language); they must ensure that programmes reflect local and regional life and promote the region's cultural activities (Articles 21 and 23, LRTV).

#### Article 21. Mandate

In their programmes local and regional broadcasters must primarily take account of the characteristics of the supply area, and contribute especially to:

- a. the formation of opinions on issues of local and regional social life;
- b. the promotion of cultural life in the supply area.

#### Article 23. Prerequisites for the granting of a licence

1. A licence for operating local and regional radio and television programmes may be granted provided:

- a. the applicant is resident or domiciled in the supply area;
  - b. the portion of original productions is commensurate with the broadcasting time and the particular characteristics of the supply area.
2. The cantons in which the supply area is located must be consulted prior to the granting of the licence.

In its programming on a national level, the public service provider (SSR) is required to broadcast selected radio and television programmes in German, French and Italian: there is one radio programme in Romansh. There are only selected television broadcasts in this language, but no specific programming. The SSR's programming must take into account the specific nature of the country and the needs of the Cantons. It must also include Swiss productions where possible (Articles 26, 27 and 28, LRTV).

#### Article 26. Licence and mandate

1. The SSR is granted a licence for the operation of programmes at national level and in the various linguistic regions.

2. The SSR shall, within its overall programme range, take into account the characteristics of the country and the needs of the cantons. In particular, through the presentation of an appropriately balanced programme, it shall contribute to:

- a. cultural development, specifically by taking into account Swiss productions as much as possible;
- b. the free formation of opinion, specifically by providing factual information with the priority on events of interest at national level and in the linguistic regions.

3. The SSR shall take Swiss audio-visual productions into account in its television programmes.

#### Article 27. Range of programmes

1. The SSR shall distribute custom-made radio programmes for each region of the national languages in the country.

2. It shall distribute custom-made television programmes for each region of the official languages in the country. The Federal Council shall determine the principles according to which the requirements of the Rhaeto Romanic speaking area of Switzerland are to be taken into account.
3. The SSR may distribute combined national radio and television programmes.
4. It may also distribute regional programmes within its range of programmes for linguistic regions.

#### Article 28. Distribution

1. Any television programme intended for a linguistic region shall be distributed throughout Switzerland. The Department shall determine the conditions under which this shall not apply.
2. One radio programme each in German, French and Italian, shall be distributed throughout Switzerland in so far as the distribution of local and regional programmes so permits. If necessary, additional frequencies shall be deployed for this purpose.
3. The Federal Council may authorise the SSR to set up and offer programmes in conjunction with local, regional and other broadcasters. Such co-operation is subject to the provisions of Article 25, Paragraph 3.
4. The Department may issue directives for the SSR concerning the distribution of its programmes.

On the international level, SSR has to produce programmes for abroad in the Swiss national languages and in other languages (Article 33, LRTV).

#### Article 33

1. The SSR shall receive a special licence for operating a radio programme intended to be broadcast abroad in the Swiss national languages and in other languages.
2. The programme must provide for close links between Swiss living abroad and their home country, promote an understanding between peoples, the presence of Switzerland abroad and an understanding of the country's affairs.

Cable television operators are required to carry a minimum choice of basic programmes (must-carry rule). This includes radio programmes broadcast by terrestrial channels for the cable network service area; SSR's other regional-language radio programmes broadcast by terrestrial channels; non-encrypted television programmes broadcast by terrestrial channels for the cable network service area broadcast and other SSR television programmes (Article 42, LRTV).

#### Article 42. Programme range

1. The licensee may freely choose the programmes which he redistributes, without prejudice to Paragraph 2 and Articles 47 and 48.
2. The licensee shall redistribute at least the following programmes provided that they can be received by the public with reasonable technical resources and in average quality and that the licensee receives them in sufficiently good quality:  
radio programmes intended for the licensee's service zone in accordance with this Law and which are distributed by wireless terrestrial means;

other SSR radio programmes for linguistic regions which are distributed by wireless terrestrial means;

uncoded television programmes intended for the licensee's service zone in accordance with this Law and which are distributed by wireless terrestrial means;

the other SSR television programmes.

3. The competent authority may, if requested, waive part of the licensee's obligation to redistribute the programmes if, for reasons of capacity, he cannot reasonably be expected to redistribute the programmes in accordance with Paragraph 2.

4. The licensee may not claim any remuneration from the operators for the redistribution of programmes pursuant to Paragraph 2.

5. The Federal Council may forbid the licensee to receive remuneration for redistributing uncoded programmes of foreign broadcasters. It may decide that such provision depends on the condition that reciprocity is granted by a foreign State, provided this does not infringe on any international obligation.

6. It may stipulate that licensees controlling channel occupancy in the terminals shall give preference to the programmes referred to in Paragraph 2 and those distributed on behalf of an operator.

7. To avoid any discrimination between the programmes referred to in Paragraph 2, the Federal Council may issue regulations concerning the measures taken by licensees to allow the public a choice of programmes.

#### 4 Current developments

The Federal Council has mandated the Federal Department of Environment, Transport, Energy and Communications (DETEC) to organise a national consultation for the drafting of a new Radio and Television Law (RTVG). According to this project, the public service radio and television will continue to be assigned to the national broadcasting corporation, SSR, which will be given strong means to this effect; private broadcasters of radio and television programmes will be granted more freedom. There will be, for example, no more special obligations for local and regional broadcasters.

In January 2000, the Federal Council adopted a discussion paper on the main features of future legislation on radio and television and at the same time instructed DETEC to revise the law.<sup>12</sup> At the end of 2000, DETEC published an initial draft of the Law on Radio and Television and initiated the public consultation procedure. Concerned and interested parties had until the end of April 2001 to take part in the consultation.<sup>13</sup> Some 200 Cantons, parties, associations, radio and television stations and other organisations took the opportunity to express their opinions on the draft law.<sup>14</sup> On 21 November 2001, the Federal Council discussed the results of the consultation on the Radio and Television Bill and mandated DETEC to draw up the legal message to the draft law.<sup>15</sup> In December 2002, the *Bundesrat* (Council of Ministers) submitted a communiqué to the Swiss Parliament concerning the complete revision of the Radio and Television Act. It proposes, *inter alia*, that particular

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<sup>12</sup> See: [http://www.bakom.ch/en/aktuell/revision\\_rtvg/auftrag/index.html](http://www.bakom.ch/en/aktuell/revision_rtvg/auftrag/index.html). See also, O. Sidler, "CH – Go-Ahead for Revision of the Radio and Television Act", *IRIS – Legal Observations of the European Audiovisual Observatory*, 2000-2: 4.

<sup>13</sup> See: [http://www.bakom.ch/en/aktuell/revision\\_rtvg/entwurf/index.html](http://www.bakom.ch/en/aktuell/revision_rtvg/entwurf/index.html). See also, O. Sidler, "CH – New Radio and Television Act under Discussion", *IRIS – Legal Observations of the European Audiovisual Observatory*, 2001-1: 6.

<sup>14</sup> See: [http://www.bakom.ch/en/aktuell/revision\\_rtvg/vernehmlassung/index.html](http://www.bakom.ch/en/aktuell/revision_rtvg/vernehmlassung/index.html).

<sup>15</sup> See: [http://www.bakom.ch/en/aktuell/revision\\_rtvg/vernehmlassung/index.html](http://www.bakom.ch/en/aktuell/revision_rtvg/vernehmlassung/index.html).

provision be made “for an independent Swiss broadcasting service that serves all the language regions equally”.<sup>16</sup>

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<sup>16</sup> O. Sidler, “CH – Communiqué Concerning the complete Revision of the Radio and Television Act”, *IRIS – Legal Observations of the European Audiovisual Observatory*, 2003-2: 6.