

# Journalism Research

Edited by Bernhard Debatin, Petra Herczeg, Gabriele Hooffacker, Horst Pöttker und Tanjev Schultz

HERBERT VON HALEM VERLAG

## TABLE OF CONTENTS

### 001 Editorial

#### Papers

- 004 Klaus Meier  
**How does constructive journalism work?**  
Putting a new reporting pattern to the test
- 005 Gunter Reus  
**How journalists can learn from Erich Kästner**  
The blurred line between journalism and literature in the work of Erich Kästner
- 025 Nina Steindl / Corinna Lauerer / Thomas Hanitzsch  
**„The future is freelance!“**  
The state of the freelance journalism in Germany

#### Essay

- 037 Friederike Herrmann  
**Why the reporting about Europe is so boring**

#### Debate

- 042 Petra Herczeg / Horst Pöttker  
**When should the nationality of criminals be disclosed?**  
Anti-discrimination rules in journalism and the discourse on migration in Germany and Austria

#### Reviews

- 058 Uwe Krüger: *Mainstream. Warum wir den Medien nicht mehr trauen*  
reviewed by Guido Keel
- 061 Irma Nelles: *Der Herausgeber. Erinnerungen an Rudolf Augstein*  
reviewed by Beatrice Dernbach
- 064 Lorenz Matzat: *Datenjournalismus. Methode einer digitalen Welt*  
reviewed by Holger Müller
- 067 Lars Bauernschmitt, Michael Ebert: *Handbuch des Fotojournalismus*  
reviewed by Evelyn Runge
- 071 Tim Kukral: *Arbeitsbedingungen freier Auslandskorrespondenten*  
reviewed by Julia Lönnendonker

#### 075 Legal Notice

# When should the nationality of criminals be disclosed?

## Anti-discrimination rules in journalism and the discourse on migration in Germany and Austria

by Petra Herczeg and Horst Pöttker

**Abstract:** Using the migration and refugee crisis as an example, this text describes, comments on and analyzes the German Press Council's (Presserat) regulations on dealing with anti-discrimination rules from a German and Austrian point of view. These issues of professional ethics are relevant in terms of both integration policy and media policy. The article aims to enhance sensitivity to the problem of discrimination against migrants in public life and to highlight the effect different case law practices can have on public discourse. The authors take turns to react to a chapter.

### **Figure 12 and Directive 12.1 of the German Press Council's "Journalistic Principles"**

Horst Pöttker

Figure 12 of the German Press Code (Pressekodex) stipulates that: "*No-one may be discriminated against for reasons of their gender, a disability, or their membership of a particular ethnic, religious, social or national group.*" Until recently, Directive 12.1 on this stated:

*In reporting on criminal offences, the membership of the suspect or perpetrator of a religious, ethnic or other minority shall only be mentioned if this justifiably aids understanding of the incident being reported on. Particular attention should be paid to the possibility that such mention could fuel prejudices against minorities.*

Starting in 2015, Germany saw an increase in the flow of refugees into the country - the problems of which initially saw only muted coverage by journalists. This and the critical public discussion about their usefulness led the German Press Council to revise Directive 12.1 in Spring 2017. The following has been in force since March 22 this year:

*In reporting on criminal offences, the membership of the suspect or perpetrator of a religious, ethnic or other minority shall not lead to discriminatory generalization of individual misdemeanors. The*

*background should not usually be mentioned unless such mention is justifiably in the public interest. Particular attention should be paid to the possibility that such mention could fuel prejudices against minorities.*

This essay examines the two versions of this specific anti-discrimination rule, which differ in their wording, but little in their meaning.

## Origin and development

Directive 12.1 goes back to the period between 1956 and 1973, when the Press Council did not yet have written rules. Since the Federal Republic of Germany had joined NATO, its allies included the USA, some of whose soldiers were African American. The German-American friendship clubs that emerged as a result began to complain that reports on offences by occupying soldiers mentioned the color of their skin. The Press Council responded on December 7, 1971 with a "*Resolution on combatting racial discrimination and prejudice*":

*Owing to a suggestion by the Association of German-American Clubs, the German Press Council recommends that, in reports on incidents involving US soldiers, the race of those involved shall not be mentioned unless of compelling pertinence.* (German Press Council 1974, 84)

This later formed the basis of Directive 12.1. The original wording stated that membership of a minority could only be stated if it was "*of significance*" to understanding of the crime (Support Association 1989, 16f.). The version that applied until Spring 2017 originated from a 1993 report by former Federal Constitutional Court judge Helmut Simon, compiled on behalf of the "Central Council of German Sinti and Roma" (cf. Simon 1993, author not named).

Since the early 1970s, the Press Council has made the ban on discrimination ever tighter and more specific. This trend has seen academic support in the form of a wealth of literature in media education that addresses the formation and functions of discriminatory prejudices.

## Investigations into the acceptance and effectiveness of Directive 12.1

There is, however, little communication studies literature that looks at the content and effects of anti-discrimination rules. References to my own studies are unavoidable.

Firstly, I have noticed considerable inconsistency in the Press Council's decision-making when it comes to complaints about homophobic discrimination in letters to editors: some complaints about letters in which homosexuals are referred to as "abnormal" lead to a reprimand, while others are dismissed as unfounded.

My next study was a full analysis of the Press Council's decisions on complaints regarding discrimination (cf. Pöttker 2005a), with the inconsistency of rulings affecting the quality here, too. Complaints about identifying the ethnicity of offenders were dismissed, even though the information was of "compelling pertinence." Where the nationality was relevant, there were discriminatory

effects; where it was not, there was no consideration of how prejudice could be fueled. In addition, it became clear that failing to mention the minority membership of criminals can also be discriminatory[1].

The Press Council received a large number of standard complaints based on Directive 12.1 in which merely the newspaper name and publication date had been entered into a ready-to-use form. In terms of figures, the Press Council is less likely to accept complaints based on Directive 12.1 than those relating to the more general Section 12 (cf. Pöttker 2005a, 202). This could indicate that journalists are not as accepting of this Directive, as it gives them less room to maneuver.

This hypothesis was examined using a representative random sample of journalists (cf. Pöttker 2009), which showed that editors are more likely to accept anti-discrimination rules that address the meaning of the rule - like Section 12 - than those that merely prohibit specific wording, as the first sentence (the second in the new version of March 2017) of Directive 12.1 does.

Using regional newspapers, Daniel Müller examined whether and how often journalists mention the background of criminal suspects where there is no "compelling pertinence" (cf. Müller 2009). He came to the conclusion that "*in many articles, the effort made to avoid discrimination was clear to see*" (Müller 2009, 213). A report on a court hearing, however, showed the flipside of these efforts when made merely in order to comply with the rules: Because the defendant's Kurdish background was not mentioned, the back-story and trial were almost impossible to understand (cf. Müller 2009).

Such adherence to the letter of the law can cause readers to mistrust information media - a problem investigated by Cornelia Mohr et al. in a survey on how reports on criminality in the local news section are received (cf. Mohr/Bader/Wicking 2009). They found that:

*Directive 12.1 on anti-discrimination largely does not serve its purpose. Recipients fill in missing information mostly through inferences based on prejudices or experience. The fact that these additions can often be incorrect, i.e. incorrectly attribute a migration background to perpetrators, may even directly counteract the purpose of the Directive.* (Mohr/Bader/Wicking 2009, 231)

A team of researchers in Mainz conducted an experiment to examine the effects of reporting that obeys Directive 12.1 (cf. Hefner/Klimmt/Daschmann 2007). Their results contradict the assumption that stating criminals' backgrounds fuels negative prejudices. "*For the Turkish perpetrator, explicitly mentioning his Turkish background actually led to a more positive reception*" (Hefner/Klimmt/Daschmann 2007, 587) than was the case for a German perpetrator. This backs up the finding that, when the background is not mentioned, the audience often draws its own conclusions, which can fuel prejudice just as much.

### **Anti-discrimination rules and journalistic professionalism**

The role of a journalist is to create a public sphere. Because disclosing information is the norm, they need to be able to justify those cases in which they do *not* disclose something. Directive 12.1 turns

this situation on its head, making non-disclosure the norm and disclosure an exception that needs justification. Not only that – it only warns journalists to consider the consequences of disclosing facts, exempting them from any concern about the consequences of non-disclosure.

If journalists are to fulfil their role, they need what Art. 5 of the German Basic Law describes as “*freedom of the press and freedom of reporting in broadcast and film.*” In Art. 5 Para. 2, the Basic Law also states the limits of media freedom, which lie “*in the provisions of the general laws, in the statutory provisions on youth protection, and in the right to personal dignity.*” None of these necessary limits on press freedom covers Directive 12.1; nor is journalists’ obligation to tell the truth relevant here, as non-disclosure of *relevant* membership of minorities is meant.

The last sentence of Directive 12.1 accuses the audience of harboring “*prejudices against minorities.*” It is not the role of journalists to combat prejudice. A highly-complex society needs to be able to rely on journalists to concentrate on their own role, namely to reflect and explain the world as it truly is. Conversely, the fact that youth protection is named as a limit on press freedom indicates that journalists can generally assume their audience to be mature and responsible.

In an earlier version of Directive 12.1, the last sentence read: “*Particular attention should be paid to the possibility that such mention could fuel prejudices against groups in need of protection.*” Of course police protection is needed for migrants in places where homes for asylum seekers are subject to arson attacks, just as it is for politicians. But neither group deserves protection against journalists or public discourse.

The delay in reporting the events in Cologne on New Year’s Eve 2015 showed that criticism of Directive 12.1 is more than just a pastime for academics. In fact, the rule can block the kind of public discourse that allows problems to be recognized and solved. Furthermore, in a world of digital media in which nothing can be kept secret for long, holding on to a general rule of secrecy like Directive 12.1 can do nothing to enhance the media’s credibility.

It is crucial that, taking the circumstances into account, journalists are free to make their own decisions on what is reported and what is not, and to take responsibility for the consequences. The ban on discrimination provided by Section 12 is sufficient to allow them to make these judgement calls.

## **What is the alternative?**

Despite this, if we accept that a concrete rule is necessary in order to sensitize journalists to the problem of discrimination, it would be a good idea to *reverse the burden of proof*. Directive 12.1 could recommend not stating criminals’ minority background where it is *irrelevant* to the clarity of the report. This would make reporting the norm.

**Code of Honor for the Austrian Press, Point 7 - Protection against blanket defamation and discrimination**

Petra Herczeg

*7.2. Any discrimination on the basis of age, disability or gender or for ethnic, national, religious, sexual, political or other reasons is impermissible.[2]*

This is the only point in the Code of Honor for the Austrian Press that addresses ethnic and other forms of discrimination. Point 10 states that information is in the public interest if it serves to “solve serious crimes, protect public safety or health, or prevent deception of the public.”

**Development**

The Austrian Press Council was founded in 1961 by publishers' associations and representatives of the journalists' union. In 2001, the Association of Austrian Newspapers (VÖZ) terminated its involvement with the Press Council, arguing that self-regulation cannot be conducted by interest groups like the journalists' union themselves, but must be initiated by the media themselves (cf. Föderl-Schmid 2008)[3]. In 2007, the VÖZ attempted to set up a new organ of self-regulation through the newly-founded Association of Chief Editors (Verein der Chefredakteure), based around a readers' advocacy group in which respected journalists would examine letters received from readers. However, this form of self-regulation did not work, as “even chief editors of newspapers that played a leading role in the Association did not feel obliged to react to inquiries from readers' advocates. They possessed neither the infrastructure nor any methods of sanction” (Föderl-Schmid 2008, 324).

Alexandra Föderl-Schmid, Chief Editor and Publisher of *Der Standard*, worked together with all the stakeholders involved to set up a working Press Council again. The Press Council took up its work in 2010.

The supporting organizations behind the Press Council are the Association of Austrian Newspapers (VÖZ), the Austrian Trades Union Confederation, represented by the journalists' union[4], the Austrian Newspaper and Journal Association (ÖZV), the Association of Regional Media in Austria (VRM), the Association of Chief Editors (Verein der Chefredakteure) and Presseclub Concordia (PCC)[5]. It is the senates, rather than the supporting organizations, that decide on complaints and announcements.

The large tabloids such as *Neue Kronen Zeitung*, *Österreich* and the free paper *Heute* are not members; alternative media like *das biber* (a transcultural magazine) and *Bum Magazin* (aimed at “people with roots in the former Yugoslavia”[6]) are actively involved. A problem is immediately obvious here: the media that most frequently violate the press code – the tabloid papers – are not involved and thus do not feel bound by the rulings of the Press Council senates.

Gamillscheg documented around 300 letters and complaints received between 1979 and 1989, and compiled them into three fields: "Errors in research and method; failure to observe boundaries; trends" (Gamillscheg 1990, 11), in addition to violations relating to images. Politicians were most likely to make a fuss about journalistic reporting.

Section 4 of the Code of Honor at the time read: "Any discrimination for racial, religious, national or other reasons is impermissible" (Gamillscheg 1990, 43).[7]

Complaints relating to this were mainly in connection with antisemitism in reports by *Kronen Zeitung* and the *Tiroler Tageszeitung*.

### **Designations of ethnic origin in Austrian media**

In contrast to the German studies quoted by Horst Pöttker, there are no systematic studies or analyses on the Austrian Press Council. The discourse here is largely conducted in and about the media. Austrian regulation and the way journalists deal with designations of ethnic origins are explored and described below.

The 2015 ECRI report on Austria includes the following recommendations:

*(i) the addition of further media to the Press Council, (ii) adherence to and publication of its decisions by non-members, (iii) the expansion of the Press Council's mandate to include all media or the establishment of similar committees for other types of media, including radio and television, (iv) the principle that media only disclose the ethnic background of suspected perpetrators where this is absolutely necessary and serves a legitimate purpose.* (ECRI 2015, 24)

This recommendation clearly highlights the deficiencies of the newly-founded Austrian Press Council and explicitly states that "clearly racist content" (ECRI 2015, 24) is published and "the ethnic background of suspects is often" (ECRI 2015, 24) stated in traditional media in reporting on crimes.

*Some media are accused of producing xenophobic content that was not properly researched; prejudices are fueled and Roma, asylum seekers and other groups in need of protection are depicted as criminals.* (ECRI 2015, 24)

On April 25, 2014, the Managing Director of the Austrian Press Council, Alexander Warzilek, wrote an article in the *Wiener Zeitung* entitled "*When Southern Europeans make headlines*" (Warzilek 2014, no page reference). In it, he examines the Austrian media that discriminate against people and the question of where the boundaries of reporting lie. He goes on to highlight the role of the Press Council, whose primary role, he says, is to "*reprimand and call for change*" (Warzilek 2014, no page reference) and demands "*ethically correct and responsible journalistic behavior*" (Warzilek 2014). Later in the article, Warzilek describes the Press Council's ruling that a short piece in the Vorarlberg edition of the *Kronen Zeitung* about a robbery was unacceptable because the unknown

perpetrator was described as a “Southern European” who was just one of the many foreigners causing security problems in Austria. Conversely, he says, the use of the terms “Eastern gangs” and “Eastern criminals” in the *Kronen Zeitung* was considered justifiable, as this kind of criminality from “the East” does exist (Warzilek 2014, no page reference).

### No concrete anti-discrimination rules for reporting on criminality

The Austrian Press Council examined 253 cases in 2015. 44 cases were ruled to have violated the Code of Honor, 35 of them committed by tabloid newspapers. The *Kronen Zeitung* was reprimanded in 19 cases, *Österreich* nine times and *Heute* seven times (cf. Tätigkeitsbericht des Österreichischen Presserats).

The Austrian Press Council’s Code of Honor does not contain any specific rules about stating the origin of perpetrators; unlike in the German Press Code, the criteria of “compelling pertinence” to the crime does not exist.

### The Austrian view of the events in Cologne

The Austrian media also reported on the events of New Year’s Eve 2015 in Cologne, with follow-up reports exploring the question of whether, and if so, how, the ethnic background of suspects and perpetrators should be reported. In a letter to the Chief Editor of the *Kronen Zeitung*, Klaus Herrmann, on February 9, 2016, Warzilek gives his thoughts on an article by Herrmann in which the Chief Editor quotes from the ruling of Senate 2 of the Press Council on stating the nationality of criminals (article dated 20.10.2015) without mentioning a key point: That stating the origin is not in itself an ethical violation, but that the important factor when stating the origin is to weigh up when this is appropriate in a specific case, and when it is not. In his opinion piece in the *Krone*, Herrmann writes that the Press Council demands that the *Kronen Zeitung* “view everything through rose-tinted spectacles” (Hermann 2016, no page reference) and that although the *Kronen Zeitung* is “obliged” not to name the ethnic background, the *Krone* would not withhold this information. He concludes:

*We will not have rose-tinted spectacles forced before our eyes so that we can pretend that asylum seekers do not cause problems in our country. Nor will we allow ourselves to be insulted as the pessimistic “lying press” who conceal the truth.* (Hermann 2016, no page reference)

In his thesis, Rusch showed that the ethnic background of “foreign” perpetrators was stated disproportionately often and more prominently than the “domestic” origin of perpetrators. Furthermore – highlighting the problem faced – letters to the editor pick up on this reporting and use it to “construct realities in which “the foreigners” are threatening, violent and criminal” (Rusch 2007, 139).

*Kronen Zeitung* readers constantly use these attributions to legitimize their views and to reinforce

their existing prejudices with further "facts."

### Attitudes among Austrian journalists

The open letter from Warzilek goes beyond the case in question and also refers to the incidents in Cologne. Excerpts from the relevant passages are quoted in order to make the arguments clearer and as the basis for discussion about how the Austrian approach can be evaluated.

Warzilek writes:

*Merely mentioning the ethnic background is - in the view of our Senates - not in itself an ethical violation. (...) Nevertheless, in our opinion, journalists should weigh up whether naming the ethnic background is necessary on a case-by-case basis.*

*We advocate a responsible approach on the part of the media, so that no resentment or prejudices can be fueled. Journalists have a measure of discretion when it comes to the question of stating the nationality - as well as prudence and objectivity, they especially need sure instincts. In a short piece about a pickpocketing incident, for example, it is questionable whether the nationality of the perpetrator needs to be mentioned. Stating it is not relevant to the readers' understanding.* (Warzilek 2016, no page reference)

Journalists' role is to report fairly and to be conscious of the fact that "*they themselves, too, are actively involved in constructing realities*" (Bonfadelli 2015, 9).

Albrich (2013) conducted an online survey of chronicle and local journalists[8] who report on criminal cases. One of the research questions related to the importance of information about suspects for the journalists (cf. Albrich 2013, 76). Most of those questioned considered ethnicity and background of little relevance. But closer questioning showed that the journalists surveyed make more sophisticated decisions on when to state the nationality and ethnicity: They considered this information unnecessary in standard criminal cases, but essential in cases of organized crime and gang-related incidents. When reporting on racially and ethnically motivated (political) conflicts, "*or 'honor' crimes, the information was undoubtedly important in the view of those surveyed*" (Albrich 2013, 83). Some consider stating the ethnicity as part of comprehensive reporting. After all, they said, "*the nationality is factual information that can/should be provided if known*" (Albrich 2013, 83). The journalists certainly weighed up when to state the ethnic background and what effects this information might have on the audience. In this context, they argued that the audience may themselves come to the conclusion that the suspect is a migrant or someone with a different ethnic background, based on other information (cf. Albrich 2013).

In the letter to Herrmann quoted above, Warzilek goes on to specify when stating the ethnic background is in the public interest:

*A similar example is when a refugee or asylum seeker is involved in IS terrorist activities. It goes*

*without saying that, here, it is in the public's interest to know that an IS terrorist entered Europe as a refugee. (...) In contrast, our Senates see the publication of mere rumors and blanket defamation (as is often the case on social media) as a clear ethical violation.* (Warzilek 2016, no page reference)

Public perception struggles to differentiate the various aspects. The topics are difficult to understand in detail, nor is there any reflection on the actions of journalists - especially in the tabloid press. Increasing ethnicization in reporting is clear to see, and there is a lack of consciousness-raising processes and public discourse that delves deeper in interpreting causes and proposing solutions "*that attempt to assert interpretational sovereignty in the controversial discourse*" (Bonfadelli 2015, 11).

Although Austria does not have an equivalent to Directive 12.1, there is plenty of discussion about stating the people's ethnic background in reporting, especially in the *Kronen Zeitung* and on social media. Ethical responsibility in the media is not only essential on the part of journalists, but requires a level of trust in the maturity of the public. Journalists need to be able to rely on an audience that is interested in comprehensive, informative reporting.

The fact that Austria was without a Press Council for so long, and that politicians and the public displayed so little interest in founding one, demonstrate a lack of desire to examine the role of journalists in society here. Anti-discrimination rules in journalism are not discussed generally, but only casuistically based on specific cases.

### **Comment on Austrian discrimination protection in crime reporting**

*Horst Pöttker*

Comparing the situations in Austria and Germany reveals similarities in the underlying structure:

- There are general rules for journalistic work that are intended to protect ethnic, national or religious groups (among others) against discrimination.
- Although self-regulation is intended to help assert anti-discrimination rules in the media, it is not entirely effective.
- Many journalists are sensitive to the issue of discrimination.
- There is vigorous public discourse about stating the ethnicity or nationality of (suspected) criminals, which has intensified following the delayed reporting of the events of New Year's Eve 2015 in Cologne.

As well as these fundamental similarities, there are also differences:

- The Austrian Press Council's Code of Honor does not include a rule that specifically prohibits naming the minority background of criminals.
- Unlike in Germany, the *Kronen-Zeitung* and other Austrian tabloids consider themselves

outside the remit of the Press Council.

- While the German Press Council has developed relatively consistently over time, the Press Council in Austria lay dormant for many years. Journalistic self-regulation has a stronger institutional base in Germany, which also makes it more bound by tradition and less flexible.
- Germany has at least a limited body of research on the requirements, content and effects of anti-discrimination rules in journalism – something that is almost entirely lacking in Austria.

## Comparing the perspectives

The two versions share a normative background: Both attempt to make an academic contribution to protecting migrants against discrimination in the media. This is reinforced by the principles of equality that are established in the constitutions of both countries.

However, both constitutions also specify the principle of freedom of the press and communication – a concept that is crucial to the capacity of modern societies to work through problems and remain cohesive. The fundamental right to protection against discrimination on the one hand, and to freedom of expression and information on the other, can contradict one another. My account emphasizes this more, while Petra Herczeg's is based on the premise that true, intelligent interest in comprehensive and informative reporting on the part of the audience is essential if journalists are to be able to provide all the facts appropriately without having to justify themselves.

## Options and recommendations for reform

The European Commission against Racism and Intolerance (ECRI) recommends the following:

- The admittance of further media to the Press Council. Tabloid newspapers, which cater to a mass market and are thus at particular risk of fueling stereotypes, do not recognize the authority of the Austrian Press Council – an extremely important recommendation.
- Adherence to and publication of the Press Council's decisions by non-members. This recommendation must be endorsed as a possible substitute for the admittance of further media to the Press Council.
- Expansion of the Press Council's mandate to include all media or the foundation of similar committees for other types of media. This is also sensible, as discrimination can take place in any type of media. Online media should not be forgotten either.
- The principle that media only disclose the ethnicity of (suspected) perpetrators when this is absolutely necessary and serves a legitimate purpose. I do *not* endorse this recommendation, because the role of journalists in creating a public sphere is a legitimate purpose in itself. I would be more likely to support a rule that prohibits journalists from disclosing the minority background of criminals where, taking all circumstances into account, this appears discriminatory (reversal of the burden of proof).

Adding a rule to the Austrian journalists' Code of Honor that generally prohibits stating the minority background of criminals is not recommended. Here, Austria has the opportunity to prevent problems that contribute to the media's loss of credibility from the outset.

There is an alternative to self-regulation by journalists that could enhance its effectiveness – even where discrimination against migrants is to be prevented. It lies in the innate journalistic method of providing wide-ranging and detailed information to the public – including about the principles and problems of journalistic ethics and the editorial decisions made. The public then provide their own informal yet effective sanctions: They switch off the television, leave the newspaper on the shelf, or do not click on a link.

### **Comment on discrimination protection in German crime reporting**

*Petra Herczeg*

In his comparative analysis, Horst Pöttker documents both German and Austrian case law practice and thus demonstrates often heterogeneous access. His idea of journalistic work and the public sphere is dominated by normative ideas. Pöttker believes that journalists have a social duty to explain, but no educational function. Despite this, he says that journalists play a crucial role in communicating ideas of "otherness" by describing, reporting, and depicting unfamiliarity. As Rath puts it, journalism can be seen as a "monitoring representative of the citizen towards his politically active representatives" (Rath 2014, 51) – one who acts in line with professional criteria and the ethics of his profession. In doing so, journalists should conduct investigative work, scrutinize input that contradicts the facts, and edit information – again, all normative requirements. The qualifications of journalists need to be better tailored – both to the challenges facing society and to the question of a deliberate approach to anti-discrimination rules. Professional journalists in both Germany and Austria still have work to do here. Thanks to processes of social transformation and diversification, it appears that even more time needs to be spent dealing with the resulting tension. I believe that the German and Austrian Press Councils need to play the role of adjudicator between adhering to the rules of good journalism on the one hand and dealing with unwanted developments in journalism on the other. Journalists are not teachers; their role is not to train their audience – that would be a rather autocratic view of the profession. Instead, as Horst Pöttker has explained, their role is to act professionally and adhere to the ethical standards of their profession. Difficulties arise, however, when the public's idea of journalism differs too widely and connotative phrases like "lying press" become part of the discourse. Journalists are often powerless in the face of such developments.

### **Skepticism towards the public sphere**

As Pöttker repeatedly emphasizes, discussion about the journalistic principles of independence and freedom of information, expression and criticism must be conducted as widely as possible in the public sphere. Self-regulation does not mean that the Press Councils seal themselves off and operate as a kind of alternative judiciary, as is the case in Austria:

*In the complaints procedure, the complainant signs a declaration in which he undertakes to recognize the Austrian Press Council as court of arbitration in the given case and thus to waive the right to appeal to the ordinary courts. In particular, this means that no compensation claims can be asserted before the court regarding the object of the complaint.* (Press Council 2016)

When a complaint is accepted by the Press Council's court of arbitration, the participating media are obligated to publish the decision: "Publication is mandatory for the media that has submitted to the arbitration of the Press Council" (Press Council 2016). However, the decisions in specific cases do not trigger a general debate about, for example, how to deal with discrimination, the extent to which the public can be involved in this, and how specific countermeasures can be taken.

The non-participating media, i.e. those that are not subject to the Press Council's jurisdiction, often publish polemics against the decisions – as examples have shown. This demonstrates the dilemma of voluntary self-regulation – those media that do not participate avoid sanctions, distance themselves and use the situation to generate even greater loyalty among their audience.

There is also a general lack of thought about journalistic professionalism when it comes to sensitization to discrimination. A range of developments in society, such as social change, processes of transformation and diversification, and the way resources such as diversity are dealt with, present a real challenge for journalists. They have to consider how to provide context and how interested the public is in a story, background reporting and explanation – as well as how the media can bolster cultural exchange.

Social tension also has an impact on journalism and how it is seen. Voluntary self-regulation should be viewed as an opportunity for democratic scrutiny that enables free media to monitor their own work independent of the state (cf. Baum 2010). However, this would require broad public discourse and "*the critical solidarity of the widest possible public sphere*" (Baum 2010, 211). I do not believe that this critical solidarity on the part of the public currently exists. Instead, unlike Pöttker, I see a public that is uninterested in explanation or education – and that is a real problem. Journalists are not the only ones with ethical standards to meet – the public plays a crucial role. Funiok describes a concept of 'audience ethics', "*because media consumers participate in the sphere of public life as communicated by the media*" (Funiok 2010, 233). This must be the starting point. After all, as Funiok continues, there is a link between responsible media use and the ability to deal competently with media (cf. Funiok 2010, 240f) – a skill that has to be learned. This includes audience awareness of the wide range of journalistic access. The public shares responsibility for maintaining standards in journalism. To do this, they need to be offered lifelong media education that generates awareness of the importance of taking part in critical public life. Pöttker describes this as "necessary for civil society" (cf. Pöttker 2005b).

The differences highlighted between the German and Austrian Press Councils show that there is undoubtedly a need for further discussion, both to prevent legislators from limiting press freedom and to establish more robust strategies to combat discrimination.

Social media in particular is home to a dynamic of arguments that spread in different directions, often generate further discussion in an affirmative and emotional way, and are thus diametrically opposed to the aim of achieving an enlightened public. Quite apart from questions of self-regulation in professional journalism, a separate debate remains to be had about the extent to which the dynamic on social media is enticing professional journalism away from its aims of producing reporting that is true to the facts, unbiased and non-discriminatory - especially in fields with high levels of audience participation.

## About the authors

**Petra Herczeg**, Privdoz. Mag. Dr., 1966, Communication Studies at the University of Vienna. The paper refers to my research interests in journalism and migration research. E-Mail to the author.

**Horst Pöttker**, Univ.-Prof. Dr. phil.-hist., born in 1944, TU Dortmund University (retired)/Hamburg University (Senior Professor), investigated the effectiveness of journalistic anti-discrimination rules as part of a DFG project on the medial integration of ethnic minorities in Germany and North America. E-Mail to the author

## Bibliography

Albrich, Sebastian (2013): Nationalität und Herkunft in der Kriminalberichterstattung. Eine Befragung österreichischer KriminalberichterstellerInnen zu den Einflüssen auf die Selektion und den Umgang mit Staatsbürgerschaft und Ethnie in der Kriminalberichterstattung. Magisterarbeit, Wien.

Baum, Achim (2010): Deutscher Presserat. In: Schicha, Christian/ Brosda, Carsten (Hrsg.): Handbuch Medienethik, Wiesbaden: VS-Verlag: S. 186-216.

Bonfadelli, Heinz (2015): Debattenbeitrag: Von der negativen Marginalisierung und Diskriminierung ... zur positiven Dominanz der Flüchtlingsthematik. In: Medien Journal, 39. Jg., H. 4, 7-11.

Deutscher Presserat (1974): Tätigkeitsbericht 1973. Bonn.

ECRI 2015: Report on Austria,  
<http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Austria/AUT-CbC-V-2015-034-ENG.pdf>,  
S. 27, abgerufen am 29.07.2016

Föderl-Schmid, Alexandra (2008): Wie es in Österreich zur Renaissance des Presserats kam. In: *Publizistik*, 53. Jg., H. 3, S. 323-325.

Funiock, Rüdiger (2010): Publikum. In: Schicha, Christian /Brosda, Carsten (Hrsg.): *Handbuch Medienethik*. Wiesbaden: VS-Verlag. S. 99-127.

Gamillscheg, Felix (1990): Der Österreichische Presserat 1979-1989, St. Pölten.

Hefner, Dorothee/ Klimmt, Christoph/ Daschmann, Gregor (2007): Typisch Türke? Die Folgen der Nationalitätsnennung für die Bewertung von Akteuren in der Nachrichtenrezeption. In: *MuK*, Jg. 55, H. 4, S. 575-594.

Herrmann, Klaus (2016): Schwarzmaler und rosarote Brille. In: *Kronen-Zeitung*.  
<http://www.krone.at/nachrichten/schwarzmaler-und-rosarote-brille-krone-kommentar-story-494803>, abgerufen am 2.8.2016

Mohr, Cornelia/ Bader, Harald/ Wicking, Malte (2009): „Da weiß ich immer schon, dass es ein Ausländer war“. Zur Wirkung der Richtlinie 12.1 des Pressekodex'. In: Geißler, Rainer/ Pöttker, Horst (Hrsg.): *Massenmedien und die Integration ethnischer Minderheiten in Deutschland*. Bd. 2. Forschungsbefunde. Bielefeld: transcript. S. 217-232.

Müller, Daniel (2009): Inwieweit berichten Journalisten ohne begründbaren Sachbezug über die Zugehörigkeit von Strafverdächtigen zu ethnischen Minderheiten? Eine inhaltsanalytische Untersuchung Dortmunder Tageszeitungen 2007. In: Geißler, Rainer/ Pöttker, Horst (Hrsg.): *Massenmedien und die Integration ethnischer Minderheiten in Deutschland*. Bd. 2. Forschungsbefunde. Bielefeld: transcript. S. 189-215.

Pöttker, Horst (2005a): Diskriminierungsverbote und Beschwerdepraxis des Deutschen Presserats. Eine quantitative und qualitative Analyse. In: Geißler, Rainer/ Pöttker, Horst (Hrsg.): *Massenmedien und die Integration ethnischer Minderheiten in Deutschland*. Problemaufriss, Forschungsstand, Bibliographie. Bielefeld: transcript. S. 185-221.

Pöttker, Horst (2005b): Publizistische Selbstkontrolle im Wandel. Über zivilgesellschaftliche Notwendigkeit und mediengesellschaftliche Irrwege. In: *Zeitschrift für Kommunikationsökologie und Medienethik*, H. 1, S. 40-48.

Pöttker, Horst (2009): Wann werden Diskriminierungsverbote von Journalist(inn)en akzeptiert? Eine Untersuchung zum Widerspruch von Migrantenschutz und Öffentlichkeitsaufgabe. In: Geißler, Rainer/

Pöttker, Horst (Hrsg.): *Massenmedien und die Integration ethnischer Minderheiten in Deutschland*. Bd. 2. Forschungsbefunde. Bielefeld: transcript. S. 161-187.

Rath, Matthias (2014): *Ethik der mediatisierten Welt. Grundlagen und Perspektiven*, Wiesbaden: VS-

Verlag.

Rusch, René (2007): Der „Ausländer-Diskurs“ der Kronen Zeitung 2005. Gibt es einen „kronischen“ Rassismus? Magisterarbeit, Wien.

Simon, Helmut (1993): Gutachten. Erstattet im Auftrag des Zentralrats deutscher Sinti und Rom, Heidelberg.

Tätigkeitsbericht des Österreichischen Presserats für das Jahr 2015:

[http://www.presserat.at/rte/upload/pdfs/taetigkeitsbericht\\_2015.pdf](http://www.presserat.at/rte/upload/pdfs/taetigkeitsbericht_2015.pdf), abgerufen am 2.8.2016.

Trägerverein des Deutschen Presserats (Hrsg.) (1989): Deutscher Presserat. Jahrbuch 1988, Bonn.

Warzilek, Alexander (2014): Wenn Südländer Schlagzeile machen:

[http://www.wienerzeitung.at/themen\\_channel/integration/gesellschaft/625552\\_Wenn-Suedlaender-Schlagzeile-machen.html](http://www.wienerzeitung.at/themen_channel/integration/gesellschaft/625552_Wenn-Suedlaender-Schlagzeile-machen.html), abgerufen am 2.8.2016).

Warzilek, Alexander (2016): Brief an CR Klaus Herrmann.

[http://www.presserat.at/rte/upload/pdfs/brief\\_an\\_cr\\_herrmann.pdf](http://www.presserat.at/rte/upload/pdfs/brief_an_cr_herrmann.pdf), abgerufen am 2.8.2016.

## Footnotes:

[1] e.g. when the membership is not the one the reader would expect given the circumstances described.

[2] This wording was composed in 2013. According to the Managing Director of the Austrian Press Council, Alexander Warzilek, the amendment was made in order to omit and re-word relics from the 1960s such as “racial discrimination.”

[3] Note that, although no sanctions were available, the journalistic code of honor essentially continued to exist in the form of the collective agreement for journalists.

[4] GPA-DJP: Union of Private Employees, Print, Journalism, Paper.

[5] The Press Council is funded by membership fees paid by its supporting organizations and by press promotion funds (cf. § 12a PresseFördG).

[6] cf. [www.bummedia.at](http://www.bummedia.at) (accessed on 2.8.2016).

[7] As mentioned before, this clause was amended in 2013.

[8] In his thesis, Albrich (2013) describes the journalists as criminal reporters. His random sample

consists of 94 journalists (print and online), of whom 68% stated that they worked as criminal reporters.

*Translation: Sophie Costella*