



POSLANECKÁ
SNĚMOVNA
PARLAMENTU
ČESKÉ REPUBLIKY

EBU

OPERATING EUROVISION AND EURORADIO

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

 **Česká televize**



PUBLIC SERVICE MEDIA AND DEMOCRACY

Conference

hosted by the Chamber of Deputies of the Parliament of the Czech Republic

***Poslanecka Snemovna
Sněmovni 1
Praha 1***

10 & 11 November 2016, Prague

REPORTS FROM THE PANELS

Thursday 10 November 2016

Panel 1

10:00-12:00 Role and responsibility of parliaments for freedom of expression and media freedom

Chair:

Mr Jan Kleijssen, Director of Information Society and Action against Crime, Council of Europe

Panellists:

Ms Dunja Mijatović, OSCE Representative on Freedom of the Media

Mr Stefan Schennach, Member of the Committee on Culture, Science, Education and Media of the Parliamentary Assembly of the Council of Europe

Dr Tarlach McGonagle, Institute for Information Law, Amsterdam, Council of Europe expert

Moderator:

Mr Boris Bergant, EBU expert

Rapporteur:

Dr Gvozden Flego, University of Zagreb

During the first panel session, it was emphasized that Public Service Media (PSM) as important sources of trustworthy information are crucial for deliberative democracy, for a wide range of programs addressed to every citizen, and for openness to political diversity. Acting in such a way PSM strongly contribute to the promotion and development of democratic values and social inclusion and cohesion as well as influencing the whole public scene, commercial broadcasters included. Freedom of expression and of the media are indices of the democratization of a society.

Parliamentarians have been asked to galvanize their political will, to use their strength and influence in order to stick to the ratified international conventions, specifically those which guarantee conditions for optimal functioning of freedom of expression and the media, and:

- To transpose the standards of the Council of Europe on freedom of expression and the media into national legislation, which needs to be based on broad public debates with all stakeholders;
- To follow the impact of the laws on freedom of expression and the media and to supervise the executive and judiciary power in how they implement the adopted laws on freedom of expression and media;
- To organize annual public debates about the state of freedom of expression, of the media and of journalists. Civil society was mentioned as an important agency.

In discussing PSM funding problems, we recalled the ancient Athenian belief that only those who have secured the means for existence can be truly free. Almost all our documents (Council of Europe, Parliamentary Assembly of Council of Europe, European Broadcasting Union) stress editorial independence and institutional autonomy as well as stable, sustainable, long term funding for PSM and the electronic media regulatory bodies, proportional to their missions and remits. The lack of funding inevitably reduces and damages PSM production and the functioning of regulatory bodies. There were warnings that funding from the state budget may open the way for political influence and namely endanger the independence and autonomy of PSM.

There were three proposals concerning those states with pronounced PSM crises:

1. To demand the Turkish authorities to protect freedom of expression and the media and to release immediately more than 130 detained journalists;

2. To demand the authorities of Bosnia and Herzegovina to properly secure funding and functioning of Bosnian and Herzegovinian Public Service Broadcasters;
3. To demand the Romanian authorities to solve the accumulated problems of PSM and to secure a model of long term funding, without any political interference.

Panel 2

12:00-14:00 Modern public service media and its impact on society and democracy

Chair:

Mr Jean-Paul Philippot, President of the EBU

Panellists:

Mr Petr Dvorak, Director General of Czech TV

Mr Alexandr Pícha, Director New Media of Czech Radio

Ms Elfa Ýr Gylfadottir, Chairperson of the Council of Europe Steering Committee on Media and Information Society (CDMSI)

Dr Klaus Unterberger, Public service broadcaster of Austria ORF

Moderator:

Mr Boris Bergant, EBU expert

Rapporteur:

Dr Juan Barata Mir, Council of Europe expert

Discussions during the session on the impact of PSM on society and democracy can be grouped around three main themes.

First, an important area of discussion was the relationship between PSM and commercial media. During the session it was stressed by several participants that such relationship should not be seen in terms of competition but rather as a matter of complementarity. This idea of complementarity refers to the fact that PSM must provide alternative content for citizens, focusing on values such as promotion of local production, originality, quality and accurate news and current affairs reporting, striving for quality, diversity, universality as well as accountability.

Therefore, complementarity does not mean putting PSM institutions in a sort of a marginal, subsidiary or elitist position, but rather as a reference point for citizens in democratic societies. For this reason, PSM should not only aim to serve the needs of the most important segments of the audience, or even of those who represent the “majority” within a certain society, but also different types of minorities that otherwise would be marginalized or underserved. In this area, two specific groups were particularly mentioned: young digital natives who do not consume conventional media content, and not-so-educated people as a particularly vulnerable group vis-a-vis different forms of populist manipulation.

Second, the session discussed the presence of PSM content in the digital world, as well as how to find a proper balance between traditional content addressed to “faithful” segments of the audience and new forms of communication aiming at reaching new and young audiences. It was agreed that conventional content still remains as a very important component of PSM’s remit, but at the same time it needs to become properly prominent and visible in new digital platforms such as search engines, social media and other similar services. In this area, PSM will have to deal with and properly understand the challenges of a new environment based on algorithms and big data. A very relevant point here would be the need to identify proper ethical standards in order to guide PSM activities and decisions.

In this challenging context, content convergence should not be used as an excuse to excessively simplify the structures of PSM’s internal organizations, therefore endangering the quality of the service.

Third, another important debate was on the idea of public value as one of the core components of PSM. The provision of public value to democratic societies has become more important than ever in the digital world as the proliferation of different voices and platforms requires the existence of particularly reliable, quality and ethical sources of information that enable the free formation of public opinion in a pluralistic democracy. In an environment where new intermediaries make vast use of non-human mechanisms (bots, algorithms, etc.) in order to define the content that will be offered, quality content elaborated by human professionals has become a very important pillar to preserve pluralistic societies.

In this area, the existence of instruments such as the peer-to-peer assessment, introduced by the EBU, allowing PSM institutions from different countries to help each other, need to be particularly outlined. The role of PSM in underpinning ethics self-regulation mechanisms, both at the internal and external levels, is also particularly important.

Panel 3

15:30-17:30 Public service media governance: ensuring institutional and editorial independence

Chair:

Ms Elfa Ýr Gylfadottir, Chairperson of the CDMSI

Panellists:

Mr Jean-François Furnémont, Council of Europe expert

Dr Michael Wagner, Head of Media and Communications Law, EBU

Ms Irina Radu, President of the public service broadcaster of Romania TVR

Mr Mogens Blicher Bjerregard, President of the European Federation of Journalists

Moderator:

Mr Boris Bergant, EBU expert

Rapporteur:

Mr Giacomo Mazzone, Head of Institutional Relations and Member Relations - South, EBU

The scope of the session was to see if existing instruments are still effective and useful to ensure the independence of the PSM and of the regulatory authority or if something more is needed.

The panellists were well placed to talk about that, because are all, in one way or another, regulators or part of self-regulation:

What didn't work till now, according to the speakers?

As a case study at the beginning of the session discussed, TVR management is under heavy stress, with an ongoing conflict with the Parliament that reject the yearly accounts, systematically obliging the managers to resign. The solution could be a separation of roles between Controlling authority (President) and Management (DG). The PDG of TVR Ms Radu has no problem with such a change, but the main problem remains the underfunding of the company, where only 7% of the budget is spent in production and the interest on debts with the bank absorbing a large part of their annual budget.

Mr. Furnemont and the chairperson (both with experience as independent regulators) indicate that the solution to this kind of problem could be to have a buffer between politics and PSM, such as a regulator with large powers, leaving the management with needed independence. But of course also they agree that adequate funding is a precondition for independence.

Mr. Furnemont also mentioned that some of the problems PSM are facing today are tightly linked to problems of modern democracies so it is fundamental to establish links and alliances with civil society and opinion leaders. A PSB closed in its ivory tower will have nobody fighting for its independence if attacked...

Mr. Bjerregard, a representative of journalists, urged others to ensure decent working conditions and a safe environment for journalists. He also insisted on the point of alliances and of creating bridges with civil society. He mentioned two concrete solutions: establish a climate of cooperation among all media in a country and generalize the use of ombudsperson in each public service. To those that were worried of the overlap of competences between national regulatory authorities, judiciary, supervisory board and ombudsperson, he answered saying that this role of guarantor of the rights of the citizens could react quickly when there is a problem, a lot quicker than internal investigations or judiciary procedures.

With real powers the ombudsperson could act in the interest of citizens and civil society and so could create a bridge with them that could increase the legitimacy of PSM.

Dr. Wagner's intervention was more focused on technicalities about the governance of PSM and safeguards for independence which are built into the governance system. These should typically include:

- Open and transparent appointment procedures based on objective criteria;
- A pluralistic composition of supervisory bodies;
- Accountability to the public, the citizens, and not just the politicians;
- An appointment of top managers based on merits and an assessment of their performance based on clear objectives (and not on political favours);
- Protection of the integrity of decision-making processes by conflict-of-interest rules and
- Insulation from outside interference;
- Internal codes of conduct ensuring high professional standards, in particular as far as editorial decisions are concerned.

Role of Parliaments:

Where Parliament is involved in the nomination of members of independent supervisory bodies, which is the case in many countries, such decisions should ideally be based on a consensus between the different political groups; the requirement of a qualified majority can sometimes help to achieve this.

Finally the problem of "media capture" by other interests (economic or political) was mentioned by the speakers. Ms Gylfadottir mentioned the total absence of rules on this point: no rule today prevent a vested interest controlling media outlets. In small countries the risk of media moghuls has implications with politics and financial interest is a big danger for democracy and pluralism.

In the debate that followed the recent decision of the Romanian Parliament to abolish the licence fee was mentioned. Strong voices asked for a rejection by the President of the Republic of this decision, taken at the last minute, with no discussion with the media and just before the election next December. An MP from Romania raised a different opinion, saying that this was made for the purpose of solving the problem of the huge financial debts of TVR.

A final remark from the audience: we are not talking here of PSM but we are talking of the common values for tomorrow's society. That's exactly that we are talking about.

Friday 11 November 2016

Panel 4

09:00-11:00 Hate speech: responsibilities of parliaments, regulators and public service media and the case law of the European Court of Human Rights

Chair:

Ms Gülsün Bilgehan, Chairperson of the PACE Sub-Committee on Media and Information Society

Panellists:

Dr Mirjana Lazarova-Trajkowska, Judge, European Court of Human Rights

Dr Herdis Kjerulf Thorgeirsdottir, Vice-President of the Venice Commission of the Council of Europe

Ms Mirjana Rakić, Agency for Electronic Media of the Republic of Croatia

Ms Helena Mandić, Director of Broadcasting of the Communications Regulatory Agency of Bosnia and Herzegovina

Mr Boris Navasardian, President of the Yerevan Press Club

Moderator:

Mr Boris Bergant, EBU expert

Rapporteur:

Mr Jean-François Furnémont, Council of Europe expert

Of course the unavoidable issue is the balance between protecting freedom of expression and countering hate speech which is at the heart of the case law of the European Court of Human Rights. This balance is even more important for the media because there is one more aspect to put in this balance which is the chilling effect some measures can have on the media. An ongoing study of the European Federation of Journalists on self-censorship in the media appears to show that one third of journalists indeed practice self-censorship.

We could structure the lessons learned from the panel by addressing the role of the respective stakeholders.

First the role of politicians which is a dual one.

There is a negative role. In the past it was quite rare to face hate speech from politicians but nowadays it becomes more and more frequent and it raises the issue of the how to deal with such a speech. We cannot ignore the fact that it exists otherwise it might backfire and present them as victims of some kind of censorship. But we have to find appropriate way to address it and find the balance between the fact there should be more protection for political expression, but there is also a greater responsibility from politicians. In this framework it is reminded that the case law of the European Court of Justice can be helpful (for example *Feret vs. Belgium* and *Le Pen vs. France*). Politicians also have a positive role to play in condemning hate speech and in promoting a culture of tolerance.

Second, the role of journalists.

There is no doubt that journalists should report about hate speech as long as it is not to support it. It is worth here recalling the case of *Jersild vs. Denmark* and the specific role of journalists: *“On the other hand, as to the contents of the Greenjackets item, it should be noted that the TV presenter’s introduction started by a reference to recent public discussion and press comments on racism in Denmark, thus inviting the viewer to see the programme in that context. He went on to announce that the object of the programme was to address aspects of the problem, by identifying certain racist individuals and by portraying their mentality and social background. There is no reason to doubt that the ensuing interviews fulfilled that aim. Taken as a whole, the feature could not objectively have appeared to have as its purpose the propagation of racist views and ideas. On the contrary, it clearly sought - by means of an interview - to expose,*

analyse and explain this particular group of youths, limited and frustrated by their social situation, with criminal records and violent attitudes, thus dealing with specific aspects of a matter that already then was of great public concern”.

Self—regulation is important, as are on the ground initiatives such as regional initiatives to confront political propaganda. There are also different guidelines, coming from different stakeholders, and we need to raise awareness about these guidelines (for example the 5 point test for journalists developed by the Ethical Journalism Network or the recent do’s and don’ts against hate speech developed by the network of Nordic journalists), but also the need to merge these various guidelines into a document which could be an universal reference for journalists as well for other stakeholders.

Third, the role of regulators.

The role of regulators in of course sanctioning hate speech, which appears as obvious but does not come without some difficulties as the Croatian case has shown but also in making sure that PSM deliver their obligations in terms of promotion of a culture of tolerance. Regulators can help in exchanging best practices, challenges and difficulties e.g. an initiative launched at the regional level among the regulators of former Yugoslavia and a pilot-project currently ongoing between the national regulatory authorities of Tunisia, Morocco and Ivory Coast, supported by the OIF.

Last but not least, public broadcasters role to counteract hate speech.

First by respecting their remit instead of indulging hate speech or being the echo chamber of political propaganda. Second by engaging in media literacy initiatives (inform – entertain – **educate**). Third by being at the forefront of the respect of journalism ethics.

The importance of dealing with these issues at the European level has also been stressed and is also reflected in the recommendations which highlight that *“Increased cooperation between PSMs and exchange of content would promote a culture of tolerance”*.

To conclude: leave aside the negatives aspects of dealing with hate speech and stress the importance of approaching the issue positively by highlighting the importance of PSM to keep at the heart of their values and their remit the case for social inclusion, social cohesion, representation of diversity and promotion of a culture of tolerance, especially in times where these values tend to be less fashionable.

Panel 5

11:15-13:00 Sustainability of public service media – the way ahead

Chair:

Ms Ingrid Deltenre, Director-General of the EBU

Panellists:

Dr Roberto Suarez Candel, Head of the Media Intelligence Service, EBU

Mr Vaclav Mika, Director-General of the Slovak public service broadcaster RTVS

Ms Celene Craig, Chairperson of European Platform of Regulatory Authorities (EPRA)

Moderator:

Mr Boris Bergant, EBU expert

Rapporteur:

Ms Radka Betcheva, Joint Head of Member Relations and Senior Manager of Partnership Programme, EBU

The major question is how to ensure that public service media (PSM) continue to play an important role on the media landscape in 2030. How to compete with Google, YouTube,

Twitter? How to ensure not just an existence, but also a place as an independent, professional and credible player in the long run?

Funding of public service media plays a crucial role for appropriate functioning and fulfilment of PSM's remit. PSM supports art, culture, film industry, music, national productions, history, etc. This requires long term planning and stability of funds. It requires independence from political interference. The practice shows, that dependence of PSM funding from the budget limits the operations of PSM. It is vulnerable to fluctuations of the budget and consequent regular decreases and easily becomes subject to political interference.

Best model proven in practice, so far, is the licence fee. It is stable, predictable, it is relatively independent from political interference and it establishes a direct link with the citizens. Unfortunately, there are more often attempts by politicians to abolish the licence fee for political reasons. Discussions of the budget of PSM should be always conducted in the context of PSM remit, because without sufficient funding PSM will not be able to fulfil their remit to society.

Independence is of vital importance for PSM because, without it, PSM cannot provide reliable and trustworthy information and cannot play their important role as a watchdog in society. PSM should be free to raise issues of public interest and bring to light wrongdoings of those in power. If PSM are not independent they are perceived as propaganda machines of the governments and are mistrusted by the audience. If they cannot win the trust of the audience - they receive very low audience shares and lose their relevance in society.

Institutional independence is important to ensure appropriate governance of PSM in the interest of the public. It is important that PSM supervisory bodies are selected in transparent merit based procedures and ensure institutional autonomy of PSM, playing an important role of a buffer between the political powers and PSM.

Editorial independence is crucial to ensure that PSM is free to pursue their own editorial policies without external pressure and report in the interest of the citizens. They should be free to criticize those in power, and trigger debates of public importance.

There is a need for a strong political will for ensuring independence of PSM. Independence and adequate funding of media regulatory authorities is also of crucial importance.

PSM are accountable to the audience. They have to be transparent in their spending and ensure they use public money in the best way. PSM have to ensure **effective structure and operations**. PSM have to ensure their structure and operations meet the respective challenges and developments. The practice of Slovakian PSM shows that the merger of radio and TV in news brings good results. Many broadcasters in Europe have merged Radio, TV and online.

PSM have to build stronger links with the audience. They have to deliver a strong message to the audience. They have to have a clear vision and mission.

PSM have to ensure their **relevance** in a long run. PSM should set the standards in the media scene providing high quality content. Excellence in reporting, production, presentation, accuracy should distinguish PSM from other players on the media scene. PSM should exchange experience and best practices, develop common projects, reach out to the audience, attract young and talented people and be an agent of innovation.

Innovation should drive PSM ahead of the developments. PSM should build alliances and gain wide support.

PSM contribute to society. They have positive political and social impact. PSM could contribute to a higher voting turnout. They promote national industries. PSM should start to measure this impact in the society and demonstrate why they are so important for democracy.