

## **Private Television in Poland & Slovakia**

*IPF Policy Research Paper, March 2003*

**Matúš Minárik**

### **CONTEXT:**

*The objectives of this project is to develop a policy paper on the role of the private mass media (specifically television) in securing (or undermining) the newly gained freedom of expression in the Central and East Europe. The goal of the policy paper, which also serves as conclusion of the present policy research paper, is to identify policy recommendations to enhance independence of mass media and foster balanced and impartial reporting. This comparative policy research paper on private media and freedom of expression in Poland and Slovakia has been preceded by an introductory comparative analysis of two Western models of private television broadcasting: Italy and the United Kingdom. These two models present different poles of treatment of the private media. While the UK managed to keep a high level of independence of private media from political actors, Italian media tycoon Silvio Berlusconi used his television stations as a vehicle into politics.*

### **INTRODUCTION:**

This paper focuses on the role of the private mainly television in securing (or undermining) the newly gained freedom of expression in two post-communist countries: Poland and Slovakia. In studies of mass media in transition countries, researchers and policy advisors have so far dedicated only limited attention to the role of private television despite its commercial success and high audience rates. Most of the research and policy advice in the post-communist countries Central and Eastern Europe has focused on the role of the public mass media. This development appears to be very natural, as the public mass media faced a challenging task of their transformation from government-run, propaganda megaliths ideally into public, flexible and pluralitarian institutions independent from the government. Thus, most of the research and policy recommendations focused on efforts to hinder manipulation of public media by political authorities.

However, the private mass media, especially television stations, in most of the Central and East European countries (CEECs) rapidly gained immense influence on public opinion. Manipulation of freedom of expression in private mass media motivated by economic interests or political aspirations of the media owners has become a major issue. Owners of

some media started to get involved directly in political parties or started Berlusconi-like political parties of their own. Institutional mechanisms and political culture in most of the Western democracies protect freedom of expression in private mass media.

However, the involvement of private television in politics differs fundamentally also among established Western democracies. First part of the present media policy research consisted of a comparative study of private television in Italy and the United Kingdom. The conclusion of the study is that a necessary prerequisite of independent and impartial private broadcasting media are effective institutional arrangements governing the structure and role of regulatory bodies, which need to be independent from the Government. However, institutional arrangements are not sufficient guarantee. Political culture is a crucial factor when analysing the media freedom, as ultimately, all regulatory bodies fall under the influence of the Government or parliamentary majority. It is the unwritten rules of conducts that prevent them from installing their cronies in the oversight bodies or from directly manipulating the media.

Analysis of Italian and British media policies has brought valuable insight for assessing success and failure of media policies in Central and Eastern Europe. Most of the institutional arrangements in the post-communist countries were shaped according to various Western models. However, these 'policy transfers' did not fully take into account different political culture. System working satisfactorily in certain country can fail to achieve the desired effects in other country. Example of the Italian media system, which fails to guarantee diversity and impartiality, is an example of failure of both institutional structures and political culture. The Italian case is particularly interesting to consider for media policy analysts working in Central and Eastern Europe, where political culture 'allows' the governing elites frequently much more than would normally be acceptable in most of the Western European countries.

Another source of manipulation is political ambitions of media owners that infringe editorial independence of 'their' television stations. Thus instead of fulfilling their public benefit role in providing impartial and objective reporting, news programs of private media often serve political (and economic) interests of media owners. Cases of impartial and biased behaviour of private televisions serving political interests of their owners appeared in Italy and Slovakia. Most of the CEECs face the rise of private media moguls without appropriate institutional arrangements and developed political culture that would guarantee and protect freedom of expression, editorial independence and non-partisan attitudes in private media.

The goal of this policy paper is to identify institutional arrangements that protect freedom of expression in private mass media. The objective of policy recommendations is to achieve a state when it is less likely that a media group becomes a political actor with own agenda and political interests. Another goal of the research will be to analyse political culture contributive/hostile to the development of critical, non-partisan private mass media. The issue of political culture appears to be particularly important. The experience of public media shows that institutional arrangements alone (very similar to those in Western Europe) cannot guarantee the freedom of expression. Politically less mature viewers/listeners in the CEECs seem to be more likely to tolerate manipulation of the mass media and on the other hand, mass media appear to be more likely to compromise freedom of expression and standards of impartial reporting.

The purpose of this comparative policy paper is to examine private television in Poland and Slovakia from the perspective of freedom of expression. The paper looks at impact of institutional regulatory arrangements and political culture on objectivity and impartiality of news reporting in the two countries. The paper consists of two case studies followed by a comparative conclusion drawing general lessons and policy recommendations.

## PRIVATE TELEVISION AND FREEDOM OF EXPRESSION IN SLOVAKIA

- **Overview of private television broadcasting in Slovakia**

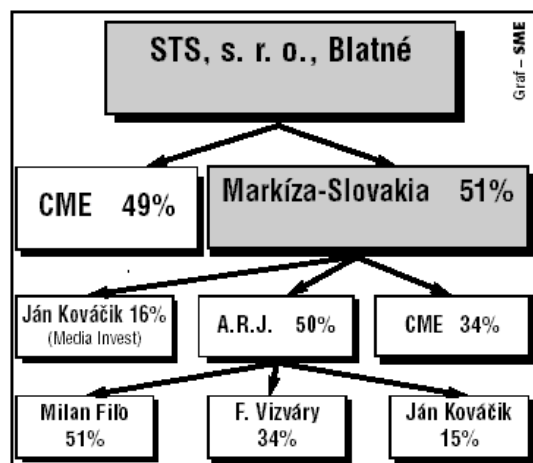
Private television in Slovakia has often been accused of biased reporting and lack of impartiality and pluralism in news, instead of serving public interest. Moreover, Pavol Rusko, former director of TV Markíza, the strongest private television in Slovakia, has been often compared by media analysts to Silvio Berlusconi, Italian television tycoon, who used his mass media for own political ambitions. Other private television stations with national coverage are TV Joj and news channel TA3.

TV Markíza was awarded the licence for terrestrial broadcasting from the former Radio and Television Broadcasting Council of the Slovak Republic<sup>1</sup> in August 1995. TV Markíza started broadcasting as the first national private terrestrial television in Slovakia in August 1996 covering nearly two thirds of the Slovak territory. The station was co-owned by the licence-holder Markíza Slovakia, which held 51 per cent of the shares and its partner Central European Media Enterprises (CME), which held the remaining 49 per cent of the shares. Markíza Slovakia and CME formed Slovenská televízna spoločnosť (STS) that operates TV Markíza. The licence-holder Markíza Slovakia was owned by TV Markíza's then managing director Pavol Rusko and Sylvia Volzová. Licence holder Markíza Slovakia became centre of severe ownership struggles in August 1998, just month before parliamentary elections. In 2001, Pavol Rusko, then director of TV Markíza formed a new political party, Alliance of New citizen, after September parliamentary elections sold of his share in TV Markíza. Current complex ownership structure is best illustrated in a graph<sup>2</sup>:

---

<sup>1</sup> The amendments in 2000 changed the name of the oversight and licensing institution to the 'Council for Broadcasting and Retransmission'.

<sup>2</sup> *Kto dnes stojí za Markízou* (Who is behind Markíza today), SME, 21 October 2002.



Soon after its start-up, TV Markíza became the most popular television station in Slovakia, regularly gaining the highest audience shares. Its main evening news programme has belonged to the station's most viewed programmes. Later on, TV Markíza formed a cross-media group consisting of countrywide radio (Rádio Okey), daily newspaper (Národná obroda) and weekly magazine (Markíza).

TV Joj started broadcasting in March 2002. The new station was created out of TV Global, a national TV channel based on a network of local TV stations. TV Global was transformed into new TV Joj after takeover of its licence holder MAC TV from Česká produkční Invest (ČPI), a subsidiary of Česká produkční 2000, a service company of TV Nova, largest private television in the Czech Republic. Direct relation between two channels has been manifested by logo of TV Joj, which took its red spiral motive from TV Nova. ČPI sold 50 per cent of MAC TV to Grafobal Group in July 2002, and remains minority shareholder with 20 per cent of share, while remaining 30 per cent is held by Slovak entrepreneur Vladimír Komár. TV Joj covered 65 per cent of Slovak territory at its launch, which was comparable to the reach of its main competitor, TV Markíza. TV Joj failed to increase its audience rates significantly at the costs of TV Markíza, which remained the dominant television station in Slovakia even after the launch of TV Joj. TV Joj's news program has a tabloid character offering less politically relevant reporting and often twisting its news towards sensations.

News channel TA3 started broadcasting in September 2001, as the second rolling news channel in Central and Eastern Europe (shortly after the launch of TVN24 in Poland). TA3 does not have terrestrial broadcasting licence, but broadcasts via satellite and cable networks. At its launch, TA3 licence holder C.E.N. was half owned by British group Millenium

Electronics, and TA3 founders Martin Lengyel (25 %), Jozef Sedlák (19 %) and Igor Čekirda (6 %). Millenium Electronics sold its 50 per cent share in TA3 to J&T Finance Group in November 2002.

Audience rates are a matter of bitter controversy among TV stations in Slovakia. There is not a single generally accepted system of measuring the audience rates. A transparent electronic system of audience rate measurement has not been introduced yet, thus TV stations so far present results of various audience surveys that tend to favour them. An example of two surveys covering the same period of time illustrates the difference among the surveys. At the same time, both surveys confirm unquestionable domination of TV Markíza. There are two daily audience rate surveys in Slovakia. Slovak Television (STV) uses audience share surveys prepared by its own Media Research and Information Department, while TV Markíza uses the audience share surveys by Visio Association.

*Prime time audience shares (30 December 2002 - 5 January 2003)*

	STV Survey <sup>3</sup>	TV Markíza Survey <sup>4</sup>
STV 1	23,54	21,3
STV 2	5,16	1,8
TV Markíza	38,67	46,1
TV Joj	9,39	8,3
TA3	0,74	0,6

Smaller television stations, TV Joj and TA3 have often complained that the diary methodology of current audience rates surveys discriminates smaller stations (TV Joj, TA3 and STV 2) and favours bigger channels (TV Markíza and STV 1). Indeed, experience from other countries has shown that introduction of electronic measurement of audience rates (peoplemetres) significantly changes data on audience rates. Bigger television station tend to lose most, while small television station lose much less or even gain. Martin Lengyel, Managing Director of TA3 said already few weeks after the launch of TA3 that audience rates

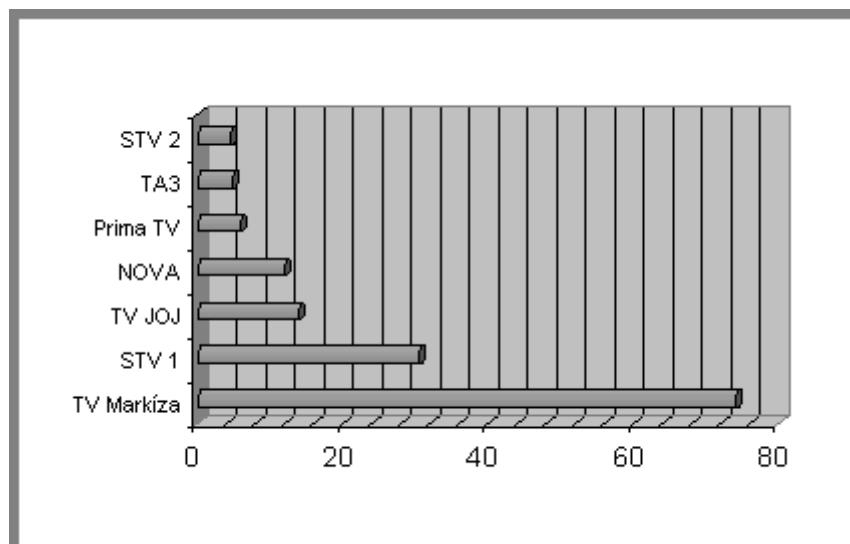
<sup>3</sup> *Weekly Audience Shares*, STV Website, <http://www.stv.sk/>.

<sup>4</sup> *Weekly Audience Shares*, TV Markíza Website, <http://tv.markiza.sk/clanok.php?idn=109239&idc=1713&artp=0>.

survey commissioned to the GfK agency shows that TA3 audience rates are “several times higher than those claimed by researchers of Visio and STV.”<sup>5</sup>

Regular surveys of audience reach<sup>6</sup> and share<sup>7</sup> are conducted also by the Median agency. These surveys confirm domination of TV Markíza both in audience reach and audience share. According to the survey conducted from 19 August to 15 December 2002, audience reach of TV Markíza was 74 per cent, STV 1 – 31 per cent, TV JOJ – 14 per cent, and STV 2 and TA3 – 5 per cent. Two Czech stations (Nova and Prima) made it into top seven television stations in Slovakia in terms of audience reach.<sup>8</sup>

#### *Television – watched yesterday (percentage of population)*



Source: Trend

Similarly, Median audience share survey puts TV Markíza audience share on the top with 59 per cent, STV 1 with 11 per cent, TV Joj with 7 per cent, and STV 2 and TA3 with 1 per cent:

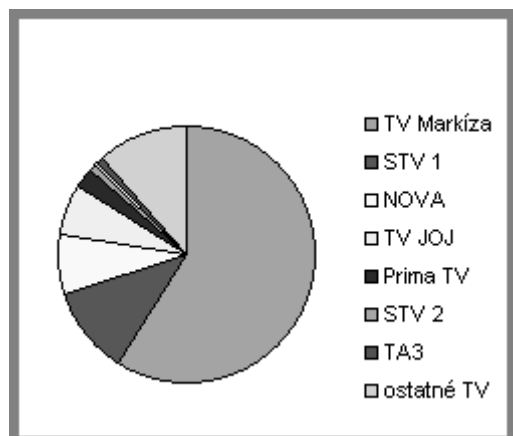
#### *Television Audience Share*

<sup>5</sup> Quoted in Sylvia Páľková, *Prieskum sledovateľnosti TA3 nie je porovnateľný s konkurenciou* (Audience rates survey of TA3 is not comparable to its competitors), Trend, 18 November 2001, <http://www.etrend.sk>.

<sup>6</sup> Reach – percentage of people within the sample that watched particular television station for more than five minutes during given period of time (usually one day).

<sup>7</sup> Share – market share of a television station among all stations. Number of minutes that that sample spent watching particular television station divided by total of time broadcast by all television station during given period of time. Expressed as percentage of market.

<sup>8</sup> Market & Media & Lifestyle Survey, Median Agency, Press Released published in Trend Weekly, [http://www.etrend.sk/generate\\_page.php3?page\\_id=22856](http://www.etrend.sk/generate_page.php3?page_id=22856).



Source: Trend

Slovakia is the last country in Central and Eastern Europe without telemetric measurement of audience rates and market shares, also known as peplemeter system (Ukraine was the last to introduce them before Slovakia). Pressure of advertisers made STV and TV Markíza to agree on a common project to introduce telemetric measurement. Both televisions established a common company called PMT, which in August 2002 announce tender for a company that would launch peplemeters in Slovakia. In October 2002, PMT announced that tender was won by Taylor Nelson Sofres<sup>9</sup>, company operating peplemeters in several countries. In February 2003, ownership of PMT changed to include all major players. Currently, STV and TV Markíza each hold 31,5 per cent of the company, TV Joj controls 16 per cent, TA3 11 per cent and Association of Media Agencies (AMA) 10 per cent. The project was to start operating in autumn 2003, with first data available in early 2004. However, the project got stalled in January 2003. According to the act on public procurement, STV had to announce a separate tender, which was called off just on 21 January 2003, just 10 days before due announcement of the winner. STV claimed financial reasons and informed it would look for alternative solutions together with PMT.

- **Media Freedom Concerns**

TV Markíza was set up in 1996 during the term of office of the Mečiar government (1994-1998), which was under international pressure over its authoritarian approach towards media and opposition. Independent and 'public' status of the Slovak Television (STV) became only a formal attribute to cover indirect submission to and control by the government through its parliamentary majority. STV became controlled and even run by the government. Absolute

<sup>9</sup> Taylor Nelson Sofres runs telemetric measurement of audience rates in 27 countries.



lack of impartiality and neutral approach to the political news was illustrated by a growing number of commentaries, which constituted almost 20 per cent of the news broadcasts of the STV.<sup>10</sup>

A number of international organisations classified Slovakia as a country with only partial freedom of the media due to the governmental activities aimed at limiting or obstructing media freedom. Freedom House decreased the democratic ratings of Slovakia in the 1994-1998 period.<sup>11</sup> In the annual ratings for the 1994-1995 and 1995-1996 periods, the scores of political rights and civil liberties were 2 and 3 respectively; the freedom status was 'free.' However, the evaluation of respect for civil liberties gradually worsened and the respective ratings for 1996-1997 and 1997-1998 periods were 2 and 4. Simultaneously Slovakia passed into the category of countries designated as 'partly free.'<sup>12</sup>

TV Markíza generally offered more balanced and impartial news service than STV. Its main evening news programme has belonged to the station's most viewed programmes. However, significant cases of partisan behaviour and favourable treatment of certain politicians and political formations started to appear also at TV Markíza in 1998. The MEMO'98 project that monitored the distribution of the airtime in the news programmes of the main electronic media stated already in its first weekly monitoring report that TV Markíza offered dramatically different views of events than STV. While the STV devoted more attention to the government and the ruling parties, TV Markíza reported a great deal more on the opposition parties. TV Markíza only occasionally aired stories without offering a fair view of the other side, while one-sided or unfair presentation of stories was a standard behaviour at the STV. However, TV Markíza presented a few stories in ways favourable to itself without giving the

---

<sup>10</sup> Andrej Školckay, "The Media and Political Communication in the Election Campaign," in *The 1998 Parliamentary Elections and Democratic Rebirth in Slovakia*, by Martin Bútorá, Grigorij Mesežnikov, Zora Bútorová, and Sharon Fisher, (Bratislava: Institute for Public Affairs, 1999): p. 115.

<sup>11</sup> Freedom House is a respected international non-profit and non-partisan organisation dedicated to the promotion of democracy, political rights and civil liberties world-wide. Since 1972, it has published annual country assessments of state of freedom. The characters representing scores for each year are political rights, civil liberties, and freedom status. Freedom House uses a 7-point scale to rank countries political rights and civil liberties. One represents the highest degree of freedom and seven the lowest. Overall freedom status has been expressed in three categories as 'free,' 'partly free,' and 'not free.' Countries whose combined averages for political rights and for civil liberties fall between 1.0 and 2.5 are designated 'free;' between 3.0 and 5.5 'partly free;' and between 5.5 and 7.0 'not free.'

<sup>12</sup> Freedom House, *Annual Survey of Freedom*, <http://www.freedomhouse.org/ratings>.

complete story or in ways that portray individual subjects unfairly, yet this tendency was markedly more pronounced on the STV.<sup>13</sup>

From spring 1998, TV Markíza helped to create positive image of Rudolf Schuster, mayor of Slovakia's second largest city Košice and former chairman of the Slovak parliament and his forming Party of Civic Understanding (SOP). TV Markíza became also directly personally associated with the SOP – several SOP candidates came from TV Markíza.<sup>14</sup> As for the amount of airtime provided to individual politicians, Rudolf Schuster, Igor Presperín and Pavol Hamžík, three leading politicians of the SOP belonged to the eight most frequently featured politicians on TV Markíza's news.<sup>15</sup>

TV Markíza became a political issue also for its role in mobilising opposition supporters during the station's turbulent ownership struggles in the run-up to the elections. TV Markíza used what appeared to be a politically motivated rate of its headquarters to rally citizens and opposition leaders to defend its independence. Opposition politicians, together with journalists, management and managing director of the station, received a considerable amount of airtime, which they used for attacks on the government. The purported take-over of TV Markíza became a major national news story. The issue of TV Markíza's disputed ownership proved to be very complicated and legal battles for the company continued until summer 2000.

In 2001, Rusko has decided to form a new political party – the Alliance of a New Citizen (ANO)<sup>16</sup>. From its very launch, Rusko has been repeatedly accused by his political opponents, as well as media analysts and observers, of using the popularity of TV Markíza programs to enhance political popularity of himself and his party.

Monitoring by Memo'98 confirmed that TV Markíza favour ANO. Memo'98 monitoring report covering the initial period of ANO existence from April to September 2001 highlighted that ANO was the only political party portrayed on TV Markíza exclusively in a positive

---

<sup>13</sup> Memo'98, Media Monitoring: Reports on Media Coverage of Slovak Politics, no. 1-6 (23 July 1998-22 September 1998): <http://www.memo98.sk/spravy/archiv.html>.

<sup>14</sup> Viera Rusková, the wife of TV Markíza's then managing director Pavol Rusko, held a senior position at TV Markíza's News and Current Affairs Department. Later, she became a candidate for the SOP in the parliamentary elections and was elected a member of the parliament. Michal Arpáš, a senior sports journalist at TV Markíza was another SOP parliamentary candidate coming from TV Markíza.

<sup>15</sup> Slovak Syndicate of Journalists monitoring quoted in Školkay (1999), p. 116.

<sup>16</sup> Acronym of the party (ANO) means 'yes' in Slovak.

light. ANO was also given 6.4 per cent of the total time of the main news at TV Markíza. Thus, the new political formation became the third most largely covered political party on TV Markíza news. ANO coverage on TV Markíza was the least balanced comparing to that of other political parties.<sup>17</sup>

In the period before the September 2002 parliamentary elections, Memo'98 designed a Media Code of Conduct setting the standards of balanced and objective reporting, editorial independence and journalist ethics. The Code was endorsed by STV, TV Markíza and TA3. Despite its endorsement of the Code, TV Markíza news regularly violated its principles. Third evaluation report of Memo'98 stated that “most of the unfair items (9) occurring in the past monitored period was brought by TV Markíza’s newscast.”<sup>18</sup>

Memo'98 regular monitoring reports concluded that ANO was the only political party presented in a positive light on TV Markíza news. Memo'98 also noted that TV Markíza news included items “lacking some very fundamental principles of journalist ethics, such as balance or impartiality and, to the opposite, presentations became accompanied by elements quite uncommon in newscasts – commentaries or judgements on the part of anchors, or indirect promotion of the ANO party.”<sup>19</sup>

Similarly to reports by Memo'98, also the monitoring by the Council for Broadcasting and Retransmission highlighted lack of balance in TV Markíza news. Representatives of ANO were given space to comment on current political developments more frequently and for longer than representatives of other political parties. ANO representatives were also the most frequent guests of current affairs programs.<sup>20</sup> In April 2002, the Council for Broadcasting and Retransmission fined TV Markíza for political advertising of ANO for 100.000 SKK (cca. 2500 EUR).

Behaviour of TV Markíza before the elections was strongly criticised by some politicians. Slovak Prime Minister Mikuláš Dzurinda accused Rusko of abusing the television station that

---

<sup>17</sup> Memo'98, Presentation of the political party ANO in the main news broadcasts in TV Markíza and STV (22 April – 21 September 2001); [http://www.memo98.sk/spravy/subory/us\\_ano2.html](http://www.memo98.sk/spravy/subory/us_ano2.html).

<sup>18</sup> Memo'98, Code of Conduct – third evaluation report; [http://www.memo98.sk/spravy/subory/en\\_conduct3.html](http://www.memo98.sk/spravy/subory/en_conduct3.html).

<sup>19</sup> Memo'98, Code of Conduct – third evaluation report; [http://www.memo98.sk/spravy/subory/en\\_conduct3.html](http://www.memo98.sk/spravy/subory/en_conduct3.html).

<sup>20</sup> Council for Broadcasting and Retransmission, Report on monitoring of TV Markíza news focusing on presentation of political subjects (15 – 31 August 2001); <http://www.rada-rtv.sk/14/14.3.html>.

he co-owns for purposes of presentation of his political party.<sup>21</sup> Dzurinda also said he feared that the independence of media in Slovakia is in danger due to their permanent connections to some politicians.<sup>22</sup> Rusko himself said he “uses, but not abuses [TV Markíza].”<sup>23</sup> He attributed positive presentation of ANO by TV Markíza news to similar opinions of people in TV Markíza due to 5-6 years of their co-operation. ANO gained 8,01 per cent of votes in the elections, which was the same result as TV Markíza-supported SOP gained in 1998 elections. After the elections, Rusko fulfilled his promises and sold his stake in TV Markíza in October 2002 to František Vizváry.

Two other private television stations in Slovakia, TV Joj and TA3, did not stir such controversy and protests as TV Markíza. Most of the concerns with TV Joj news were related to its nature. Character of TV Joj news significantly differed from what has been offered so far in television news in Slovakia. Proportion of politically relevant news was much smaller and more superficial. More prominence was given to general human interest news and to presenting shocking sensations.<sup>24</sup> TV Joj presented also politically relevant news in a different way – often scandalising the entire political scene.<sup>25</sup>

Before its launch, TA3 was suspected by some that it would support the Prime Minister Mikuláš Dzurinda and his Slovak Democratic and Christian Union (SDKÚ), as TA3 Director Martin Lengyel worked as Dzurinda’s spokesperson, before launch of TA3. However, monitoring by the Council for Broadcasting and Retransmission and by Memo’98 did not confirm these fears.

Council for Broadcasting and Retransmission monitoring concluded that politically relevant reporting on TA3 had neutral character and did not favour any of the political options.<sup>26</sup> Memo’98 monitoring from January to April 2002 concluded that promotion of political parties did not appear on TA3. Moreover, negative coverage of the Dzurinda Government

---

<sup>21</sup> SME, Dzurinda criticised abuse of TV Markíza for benefit of ANO; [http://www.sme.sk/clanok\\_tlac.asp?cl=596384](http://www.sme.sk/clanok_tlac.asp?cl=596384).

<sup>22</sup> SME, Dzurinda thinks that media independence is in danger; [http://www.sme.sk/clanok\\_tlac.asp?cl=598869](http://www.sme.sk/clanok_tlac.asp?cl=598869).

<sup>23</sup> Pavol Rusko in an interview televised on TA3, Quoted in SME, Rusko: I don’t abuse TV Markíza, but use it; [http://www.sme.sk/clanok\\_tlac.asp?cl=664937](http://www.sme.sk/clanok_tlac.asp?cl=664937).

<sup>24</sup> Tabloid information constituted about 20 per cent of TV Joj news. Memo’98, Monitoring of electronic media (1 January 2002 - 31 April 2002); [http://www.memo98.sk/spravy/subory/sk\\_jan02-apr02.html](http://www.memo98.sk/spravy/subory/sk_jan02-apr02.html).

<sup>25</sup> Memo’98, Presentation of political subjects in selected electronic media (1 May – 31 July 2002); [http://www.memo98.sk/spravy/subory/sk\\_2002-maj-jul.html](http://www.memo98.sk/spravy/subory/sk_2002-maj-jul.html).

<sup>26</sup> Council for Broadcasting and Retransmission, Report on monitoring of TA3 (4 – 10 March 2002); <http://www.rada-rtv.sk/14/14.5.html>.

prevailed over neutral coverage, while there was no positive coverage.<sup>27</sup> In its next three-month monitoring report, Memo'98 said that the most criticised parties on TA3 were Mečiar's Movement for a Democratic Slovakia (HZDS) and Dzurinda's Slovak Christian and Democratic Union (SDKÚ). Memo'98 also explicitly appreciated that TA3 strived to keep balanced and impartial reporting.<sup>28</sup> In the pre-election period, Memo'98 monitored how television stations observed the Media Code of Conduct. Memo'98 reports generally appreciated "balance of positive and negative mentions of contesting parties,"<sup>29</sup> However, case of biased reporting appeared also at TA3. First monitoring of observance of the Media Code of Conduct pointed that launch of the SDKÚ campaign in Modra was presented in an overly positive manner and lacked any criticism.<sup>30</sup>

TA3 was a centre of scandal due to sources of its financing. TV Markíza and STV brought news about TA3 unusual advertising contract with Horizont/BMG, an unlicensed financial institution based on the pyramid scheme principle. Its bankruptcy in March 2002 left tens of thousands without their savings. Horizont provided TA3 with a generous advance payment for advertising (147 million SKK, approx. 3,5 million EUR), which largely financed the launch of the channel.

- **Legislative Framework & Regulatory Institutional Arrangements**

Both public service television broadcasting and licensed private television broadcasting in Slovakia is regulated by the Act on Broadcasting and Retransmission<sup>31</sup> adopted in 2000. Regarding the responsibility for the contents of television broadcasting, the Act defines the broadcaster as 'a natural or legal person who has editorial responsibility for the composition and content of a programme service.' The Act defines full-range broadcasting as broadcasting, which covers the whole territory of the country and can be received by more than 80 per cent of the inhabitants, while multiregional broadcasting is broadcasting, which covers several regions and can be received by 30 to 80 per cent of inhabitants. Regarding the

---

<sup>27</sup> Memo'98, Monitoring of selected electronic media (1 January – 31 April 2002); [http://www.memo98.sk/spravy/subory/sk\\_jan02-apr02.html](http://www.memo98.sk/spravy/subory/sk_jan02-apr02.html).

<sup>28</sup> Memo'98, Presentation of political subjects in selected electronic media (1 May – 31 July 2002); [http://www.memo98.sk/spravy/subory/sk\\_2002-maj-jul.html](http://www.memo98.sk/spravy/subory/sk_2002-maj-jul.html).

<sup>29</sup> Memo'98, Media Code of Conduct – presentation of political parties; [http://www.memo98.sk/spravy/subory/en\\_conduct5.html](http://www.memo98.sk/spravy/subory/en_conduct5.html).

<sup>30</sup> Memo'98, Media Code of Conduct – presentation of political parties; [http://www.memo98.sk/spravy/subory/en\\_conduct11.html](http://www.memo98.sk/spravy/subory/en_conduct11.html).

<sup>31</sup> Act on Broadcasting and Retransmission; <http://www.rada-rtv.sk/a/a1.1.html>

media ownership, the Act defines the property connection as ‘a greater than 25 per cent share in the issued capital of a second person, or more than a 25 per cent share in the announcing rights of a second person as well as mutually between close persons.’

The Act determines the status, competence and objectives of the highest supervision and oversight body – the Council for Broadcasting and Retransmission. The Act defines the objective of the Council as ‘to enforce the interests of the public in the exercise of the rights to information and freedom of speech, and rights of access to cultural values and education, and to perform state regulation in the areas of broadcasting and retransmission.’ Regarding the contents of politically relevant broadcasting, the Council ‘shall pursue the maintenance of plurality of information in the news programs of the broadcasters broadcasting on the basis given by law or on the basis of a license according to this law.’

The Council has nine members who are elected and recalled by the Slovak Parliament. The Act stipulates that the Parliament may be presented with proposals for candidates of Council also by professional institutions and civil associations operating in the areas of audio-visual, mass information means, culture, science, education, sport, registered religious and church societies, and civil associations of citizens with health handicaps. Term of office of Council members is six years, and only one re-election is possible.

The Council’s competence regarding private television broadcasting is to decide on licenses for broadcasting and terrestrial broadcasting, to supervise the fulfilment of duties according to the Act on Broadcasting and Retransmission, as well as impose sanctions on a broadcaster.

The Act defines fundamental rights and duties of broadcasters regarding the content of program and freedom of reception. The Act stipulates that the broadcaster ‘shall broadcast programmes freely and independently. There can be intervention into their content only on the basis of law and its limits.’ The Act requires that the broadcaster must ensure the following: ‘universality of information and plurality of opinion within the broadcast programme service; objectivity and impartiality of news programmes and current affairs programmes; opinions and evaluating comments must be separated from information of a news character; and programmes and other elements of the programme service broadcast within election campaigns comply with special regulations.’

The Act forbids both horizontal and cross-media concentration at national level with the objective to ensure the plurality of information.<sup>32</sup> The limitation of the cross-media ownership is set in following way: ‘one legal or natural person must not be connected through capital with more than one licensed broadcaster of multiregional or nationwide broadcasting of radio programme services, or with one licensed broadcaster of multiregional or nationwide broadcasting of television programme service; at the same time, this person also must not be connected through capital with a publisher of nation-wide periodicals,’ and ‘any connection through capital or through personnel of a broadcaster of a radio programme service and a broadcaster of a television programme service with each other, or with a publisher of nation-wide periodicals, shall be prohibited.’

The Act allows for horizontal concentration between local radio or regional radio stations, or local and regional television stations only if the broadcasting of all of the connected radio or television broadcasters can be received by maximum 50 per cent of total population.

The Act determines that the Council shall revoke the license of a broadcaster in case of breach of the ownership regulations or failure to adjust the ownership circumstances so as to make them compliant with the law in the time limit determined by the Council. The Council can impose four kinds of sanctions on the broadcaster in case of a breach of obligations on contents set by the Act on Broadcasting and Retransmission: warning on infringement of law, broadcasting of an announcement about infringement of law, suspension of broadcasting of programme or a part of thereof, and fine.

---

<sup>32</sup> Horizontal concentration stands for concentration processes within one and the same industry sector. Cross-media concentration stands for a situation whereby one media enterprise controls through cross-ownership different media products or outlets in different media markets and industries. Third type of concentration is vertical concentration, which stands for activities of a given media enterprise seeking or exercising control over all or some steps necessary for the production or distribution of a given media. Source: Werner A. Meier and Josef Trappel, “Media Concentration and the Public Interest” in *Media Policy: Convergence, Concentration and Commerce*, edited by Dennis McQuail and Karen Siune, (London: Sage Publications. 1998): pp. 38-60.

## PRIVATE TELEVISION AND FREEDOM OF EXPRESSION IN POLAND

- **Overview of private television broadcasting in Poland**

The number of private television stations in Poland is larger and their history is longer comparing to Slovakia. From the launch of the private television in Poland, Polsat has been the major player that first dominated the audience and market shares in a similar way to TV Markíza in Slovakia. Later on Polsat's domination was gradually undermined by improving audience and market share of the public service Polish Television (TVP) and growth of Polsat's main commercial competitor TVN. Both major private television stations, Polsat and TVN, managed to create media groups consisting of several television channels and other media outlets. Other private television broadcasters have been struggling for survival and have marginal audience and market shares.

Polsat started broadcasting in December 1993 from the Netherlands and became Poland's first private satellite program. In 1993, the National Broadcasting Council, Poland's broadcast oversight and licensing body, granted the station licence for satellite broadcasting, which enabled Polsat to broadcast from Poland. In 1994, the National Broadcasting Council granted Polsat the only countrywide terrestrial broadcasting licence, which cover 94 per cent of Poland's territory. In 1996, Polsat launched its second channel - Polsat 2. The company is affiliated with TV4 channel, which uses Polsat Media as its representative for sale of advertising space. Polsat operates also one of Poland's two digital platforms, Polsat Cyfrowy. Polsat also owns shares in private television channels in Lithuania, Latvia and Estonia. Polsat developed into a large business conglomerate comprising media businesses, but also a bank (Invest Bank), insurance company (Polisa Życie), pension fund (Polsat).

Polsat is 99.7 per cent owned by Zygmunt Solorz. In January 2002, Polsat announced that it was looking for an investor to buy from 33 to 49 per cent of Polsat shares. Despite much higher audience shares than TVN, Polsat was losing the battle for advertisers with TVN due to the difference in the audience of the two stations. Polsat's typical audience was rural and less educated, while TVN's audience was urban, better educated. Immediately after the announcement, media started to speculate on Polsat's most likely suitor. A number of international media companies expressed their potential interest in buying into Polsat. Potential investors included also Poland's biggest media firm, Agora, owner of the largest



daily newspaper *Gazeta Wyborcza*, number of magazines and local and regional radio stations.

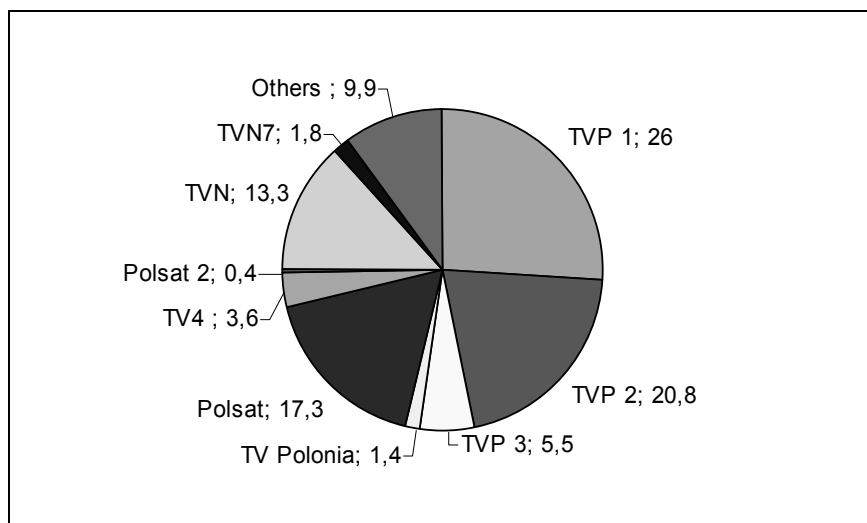
Poland's second private television channel TVN was formed in October 1997 out of regional TV Wisła. TVN was launched by Polish media group ITI, which now owns 70 per cent of TVN's shares. Remaining 30 per cent are owned by SBS Broadcasting. ITI is controlled by TVN's three managers – Jan Wejchert, Mariusz Walter and Bruno Valsangiacomo. ITI planned to buy back the shares from SBS Broadcasting. The purchase was to be financed from ITI's planned debut at the Warsaw Stock Exchange in June 2002. The public offer was called off shortly before its launch due to falling markets. ITI is a diversified media group. ITI bought RTL7 channel from RTL Group in 2001 and turned it into TVN7 in March 2002. In September 2001, ITI launched Central and Eastern Europe's first rolling news station, TVN24. ITI has also controlling stakes in Poland's biggest internet portal *onet.pl* and in the multiplex chain *Multikino*.

Audience shares pattern in Poland differs significantly from the one observed in Slovakia. The main difference is in the power of the public television. *Polsat*, Poland's largest private television station managed to dominate the audience shares only for few months in 2000. *Polsat* had 30 per cent audience shares, while public TVP 1 ranked second with 26 per cent. Currently, TVP's three channels regularly muster up combined audience shares over 50 per cent. *Polsat* ranks only third after TVP 1 and TVP 2, while TVN has the lowest audience share out of the four major television channels.

The issue of audience rates is not a controversy as in Slovakia. Poland has a reliable system of telemetric measurement of audience rates run by AGB Polska.<sup>33</sup> Peplemeters confirm domination of TVP over private channels. In the week of 3-9 February 2003, TVP 1 audience share was 26 per cent and TVP 2 – 20,8 per cent. Together with the re-launched regionalised channel TVP 3 and TV Polonia for viewers abroad, TVP's combined audience share was 53,7 per cent. *Polsat* finished third with 17,3 per cent. TV4's 3,6 per cent and *Polsat* 2's 0,4 per cent gave the *Polsat* channels a combined audience share of 21,2 per cent. TVN ranked third with 13,3 per cent and together with TVN7's 1,8 per cent gave the TVN group a combined audience share of 15,1 per cent.

---

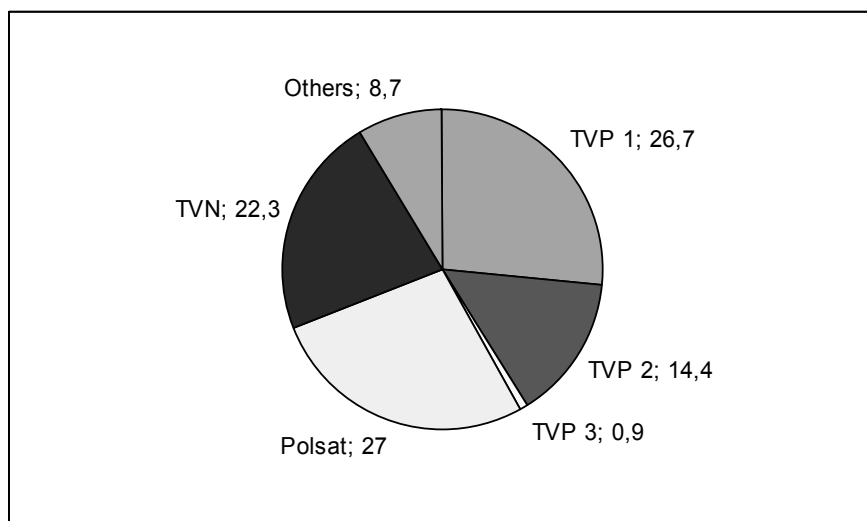
<sup>33</sup> AGB runs telemetric measurement of audience rates in 19 European countries.

*Audience Rates in Percentage (3 – 9 February 2003)*

Source: AGB Polska.

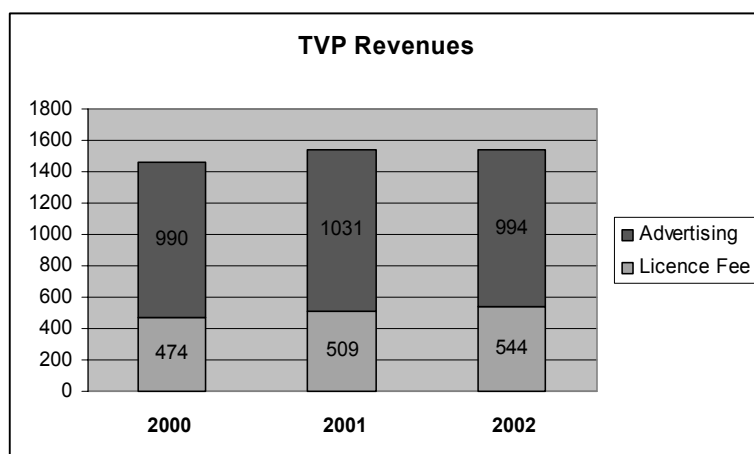
Remaining television stations have a combined audience share of 9,9 per cent. There have been several efforts (Tele 5, TV Puls, Telewizja Niepokalanów) to build a larger third private television channel to potentially compete with Polsat and TVN, or at least their smaller channels TV4 or TVN7. However, audience shares of Tele 5 and TV Puls remained marginal since their launch. A new effort to build third private television channel will be launched in 2003 by controversial catholic priest Tadeusz Rydzyk. Rydzyk is director of Radio Maryja, an ultraconservative station with anti-European agenda and large group of devoted followers. In February 2003, Rydzyk received licence for his television channel Trwam (literally ‘I persevere’), which will most likely compete mainly with catholic family stations TV Puls and Telewizja Niepokalanów II.

Chart showing the distribution of income from advertising confirms domination of TVP, which has a combined share of 42 per cent in the advertising market. Polsat comes second with 27 per cent and TVN third with 22,3 per cent. Despite being clearly ahead of TVN in terms of both audience rates and advertising share, Polsat has been losing to TVN since March 2001. TVN pioneered reality show in Poland (Big Brother) and has been attracting richer audience, which was more interesting for ad agencies.

*Advertising Shares in 2002 (percentage).*

Source: Expert Monitor.

Both Polsat and TVN complain about unfair competition from TVP due to alleged commercial character of its broadcasting. Mariusz Walter, Vice-President of TVN owner ITI, said that “TVP nowadays became a commercial television subsidies by the state. This evidently infringes principles of free competition.”<sup>34</sup> The chart shows that about two thirds of TVP revenues have been coming from advertising and only about one third from licence fees.



Source: National Broadcasting Council.

TVP is being accused by private broadcasters of producing an essentially commercial programme instead of focusing on its public benefit mission, with the advantage of having additional resources available from the licence fee. Office for the Protection of Competition and Consumers found out that TVP infringes the competition regulations and abuses its dominant position in selling the advertising space.

<sup>34</sup> Adam Grzeszak, A teraz Państwa rozerwiemy (And now we will enjoy you), Polityka, 1 March 2003, p. 3.

- **Media Freedom Concerns**

Most of the concerns with media freedoms in the field of private television in Slovakia were related to lack of impartiality and neutral reporting in broadcasting of the strongest private TV station in Slovakia and its preferences for the political party established by its former co-owner and director Pavol Rusko. In Poland, the situation has been essentially different. Neither of the two main private channels has featured biased political reporting. Unfortunately, monitoring data distribution on airtime and character of politically relevant broadcasting is not available in Poland in a similarly consistent and regular way as monitoring reports by MEMO'98 in Slovakia.

In May 2002, the daily *Rzeczpospolita* published its third report on television news programmes. A group of seven journalists monitored politically relevant news programmes measuring the airtime given to individual political groups, as well as character of reporting. *Rzeczpospolita* concluded pointed at partisan approach of that TVP favouring the government politicians claiming that TVP used “any event or issue as an excuse for promotion of politicians from Leszek Miller group.”<sup>35</sup>

Polsat and TVN news programmes are more neutral and objective in their reporting. The report concluded that competitors of TVP try to keep distance from the world of politics. Instead of using the issues and events to promote certain politicians, Polsat and TVN describe the issues and their context. Private channels also rarely report official ceremonies, which is often a way of promoting the governing politicians in TVP. The National Broadcasting Council issued a statement in July 2002 expressing its concerns about marginalisation of opposition in TVP and Polish Radio.

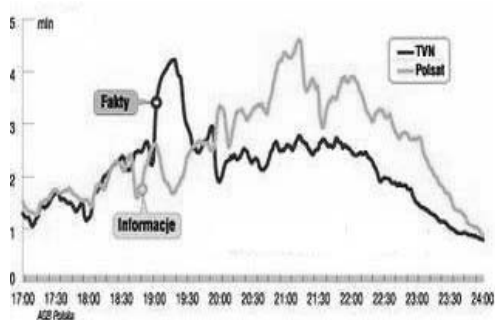
Both Polsat and TVN main news bulletins were acknowledged for their objectivity and impartiality. However, there is a significant difference between Polsat's ‘Informacje’ and TVN's ‘Fakty.’ TVN main news bulletin is more rich in content and its professional quality is higher. This has been acknowledged also by Polsat's owner Solorz who said that it has been easier to broadcast films, soap operas and action movies, because news programmes are

---

<sup>35</sup> Luiza Zalewska, *Stwórcy teleświatów (Creators of teleworlds)*, *Rzeczpospolita*, Third Report on Television News Programmes (13-19 May), 14 June 2002, p. S2.

expensive. Solorz however confirmed that new focus of Polsat is to strengthen ‘Infomacje.’<sup>36</sup> In January 2003, Polsat changed the studio of its main news programmes and became partner of CNN in Poland. However, popularity of Polsat’s main news bulletin lags behind that of TVN’s ‘Fakty’ also after changes. Despite generally higher audience rates than TVN, Polsat’s ‘Infomacje’ clearly lose in the battle for audience with ‘Fakty.’<sup>37</sup>

*Average Audience Rates of Polsat and TVN (in millions)*



Source: AGB Polska. Chart: Gazeta Wyborcza (13 January 2003)

The main concerns with media freedoms in Poland are related to the government sponsored draft amendment of the Broadcasting Act, which has been followed by series of protests of almost all private media in Poland against the government media policies. The Government asked the National Broadcasting Council, Poland’s highest supervision and oversight body for television and radio broadcasting to prepare an amendment of the Broadcasting Act. The main objectives of the amendment were to bring the Polish media legislation in line with the EU requirements and to set new rules preventing concentration of media ownership. The National Broadcasting Council submitted the proposal to the Government in January 2002.

Anti-concentration regulations have been the most controversial part of the amendment. The new regulations related to television would prevent anybody from owning more than one national television channel and at the same time owner of a national daily newspaper would be prevented from owning a national television station. Since January 2002, the amendment of the Broadcasting Act has been one of the main issues of Poland’s domestic political agenda. Private media formed an unprecedented coalition comprising TVN, Polsat, TV4, TV Plus, Agora {publisher of Poland’s biggest daily newspaper Gazeta Wyborcza}, and largest

<sup>36</sup> Interview with Zygmunt Solorz, Luiza Zelewska, Nigdy mnie nie interesowała władza (I have never been interested in ruling), Rzeczpospolita, 6 December 2002, p. A8.

<sup>37</sup> Vadim Makarenko, Rywalizacja Polsatu i TVN ze scenografią w tle (Rivalry of Polsat and TVN with design in background), Gazeta Wyborcza, 13 January 2003.

private radio stations RMF FM and Radio Zet. United media protested against what they perceived as Government's infringement in pluralism, fair competition and their business development. Media representatives also pointed at the recent trend in the EU to liberalise the regulations preventing concentration of the media ownership. The government argued that the regulations were designed to protect media diversity and prevent monopolist position.

The new legislation would have direct impact on all of the largest Polish media enterprises. Agora has been open about its intention to diversify its media business from newspaper, magazines and radio stations to include also a television station. Agora confirmed widespread speculation that it is interested in buying Poland's biggest private television station Polsat. Both Polsat and TVN owned several television channels, which they would have to divest if the amendment was approved. Media representatives argued that the amendment would prevent them from strengthening their market position. Thus, they would be an easy acquisition target after accession of Poland to the European Union and subsequent lifting of the rules on foreign ownership by companies from the EU. Media also accused the government that the new law will weaken the private television channels at the expense of TVP and thus it will help to create one large monopolist at the television market.

Intense clash of the media and government provoked also an international reaction. The amendment was criticised by the World Association of Newspapers (WAN), World Press Freedom Committee and International Press Institute (IPI). IPI noted that the draft amendment fails to take into account strength considerable strength of the state-funded media in Poland that can compete for advertising revenues under the same rules as the commercial media.<sup>38</sup>

Foreign Affairs Committee of the European Parliament expressed its concerns related to the amendment that could "bring about excessive government influence on media."<sup>39</sup> Parliamentary Assembly of the Council of Europe criticised Poland for fast-track legislative process in case of draft amendment of the Broadcasting Act. International criticism of the media situation in Poland has parallels in Slovakia with the situation during the rule of the autocratic premier Vladimír Mečiar.

---

<sup>38</sup> IPI Letter to Leszek Miller, <http://www.freemedia.at/Protests%202002/poland08.04.02.html>.

<sup>39</sup> Gazeta Wyborcza, Komisja Spraw Zagranicznych Parlamentu UE zaniepokojona projektem ustawy o RTV (Foreign Affairs Committee of the European Parliament concerned about the draft amendment of the Broadcasting Act), 22 May 2003.

Widespread domestic protests of media, opposition as well as the Ombudsman and President, and international protests forced the government to propose in July 2002 a 'milder' version of anti-concentration regulations. The new government draft would prevent from ownership of a television only publishers of daily newspapers with a market share above 20 per cent. Due to continued controversies, the law has not been passed yet. The speaker of the Parliament formed an expert group to further amend the draft in early 2003. The group recommended changes mostly in sections concerning TVP and collection of its licence fee. The amendment has not been passed so far.

On 27 December 2002, one of the biggest scandals of the post-communist Poland started with *Gazeta Wyborcza*'s furore publication about an alleged attempt by film producer Lew Rywin to solicit a 17.5 million USD bribe from the publisher of *Gazeta Wyborcza*, the media group Agora. Rywin claimed to act on behalf of group in power including Prime Minister Leszek Miller and offered Agora to lobby the Government for a favourable media law that would allow Agora to buy Polsat. *Gazeta Wyborcza* Editor-in-chief Adam Michnik secretly recorded Rywin's proposals at a meeting in his office in June 2002. Michnik said his newspaper conducted journalist investigation into the case, before it published the transcript more than half a year later. In February 2003, the Polish Parliament formed a 10-member commission to investigate the allegations.

In February 2003, Polsat owner Zygmunt Solorz announced that he was not looking for the investor anymore due to a scandal and that he would postpone the decision until the scandal is clarified. Agora director Wanda Rapaczyński confirmed Agora's continued interest in Polsat. Private Media Broadcasters continually rejected the draft amendment and represented by the Polish Confederation of Private Employers (PKPP) asked the Government to abandon the amendment in its present form and instead prepare a new draft that would bring the Polish media legislation in line with EU standards without introduction of restrictive media ownership rules.

In their conflict with the Government, Polish private media succeeded in mobilising public support for their cause. Effectively, they achieved that changes were made to the initial draft and the whole process was postponed and widely discussed.

- **Legislative Framework & Regulatory Institutional Arrangements**

The Constitution of the Republic of Poland adopted in 1997 determined that the “National Broadcasting Council shall safeguard the freedom of speech, the right to information as well as safeguard the public interest regarding radio and television broadcasting.”<sup>40</sup> The Constitution also determines that the members of the National Broadcasting Council are appointed by the lower chamber of the Polish Parliament (Sejm), Senate and President. Further regulations are defined in the Broadcasting Act, which was adopted in 1992, and later amended at several occasions.

The Act broadly defines the National Broadcasting Council as “state authority competent in matters of radio and television broadcasting.”<sup>41</sup> The tasks of the National Broadcasting Council related to private television broadcasting include: decisions concerning broadcasting licences, supervision of the activity of broadcasters within the limits of powers granted under the Act, research into the content and audience of television programme services.<sup>42</sup>

The Act determines the composition of the National Broadcasting Council. It specifies that the Council shall consist of 9 members, of which 4 shall be appointed by the Sejm, 2 by the Senate and 3 by the President from ‘amongst persons with a distinguished record of knowledge and experience in mass media.’ The term of office of the members of the Council is six years from the day of their appointment. The term of office of one third of the Council members shall be staggered every two years.<sup>43</sup>

The Act defines tasks of radio and television broadcasting as: to provide information, to ensure access to culture and art, to facilitate access to learning and scientific achievements, to disseminate civil education, to provide entertainment, and to promote domestic production of audiovisual works.<sup>44</sup> The Act defines that a broadcaster shall “enjoy full independence in determining the content of the programme service with a view to fulfilling the tasks.”<sup>45</sup>

---

<sup>40</sup> The Constitution of the Republic of Poland of 2 April, 1997, Art. 213

<sup>41</sup> The Broadcasting Act, Art. 5.

<sup>42</sup> The Broadcasting Act, Art. 6.

<sup>43</sup> The Broadcasting Act, Art. 7.

<sup>44</sup> The Broadcasting Act, Art. 1.

<sup>45</sup> The Broadcasting Act, Art. 13.



Regarding the ownership rules, the Act stipulates that ‘broadcasting licences may be granted to natural persons of Polish nationality who permanently reside in Poland or to legal persons having their permanent seat in Poland. Companies having foreign shareholders may be awarded a broadcasting licence if the share held by such foreign entities does not exceed 33%, or if Polish citizens resident in Poland constitute a majority of members of the Board of Directors and the Board of Management of the company, or if the share of votes exercised by foreign shareholders and entities controlled by foreign persons does not exceed 33% of votes.’<sup>46</sup>

The Act does not specify any rules limiting concentration of media ownership. However, it gives the National Broadcasting Council power to revoke the broadcasting licence if by ‘transmitting programme services the broadcaster gains a dominant position in mass media in the given area.’ The broadcasting licence may also be revoked for reasons related to the contents of programme. The Act stipulates that the licence may be revoked if the transmission of programme services threatens the interests of the national culture, security and defence or if it transgresses the standards of public decency. Licence may also be revoked if another person takes over direct or indirect control over the activity of the broadcaster.<sup>47</sup>

## **CONCLUSION AND POLICY RECOMMENDATIONS**

For conclusion and policy recommendations, please see separate policy paper at [www.policy.hu/minarik](http://www.policy.hu/minarik).

---

<sup>46</sup> The Broadcasting Act, Art. 35.

<sup>47</sup> The Broadcasting Act, Art. 38.