6. Other Council of Europe Resources

Council of Europe's Commissioner for Human Rights: Public service broadcasting under threat in Europe

In 2017, the then Commissioner for Human Rights of the Council of Europe Nils Muižnieks expressed concerns over an emerging trend of threats to the independence of PSM or their regulatory bodies *in his widely quoted report "*Public service broadcasting under threat in Europe"[111]. Commissioner Muižnieks reiterated that PSM is not only about providing information, education, culture and entertainment, but also an essential factor of pluralistic communication and one of the main characteristics of a democratic society.

He also recognised the role of PSM in addressing the problem of disinformation. According to his report, the problem of disinformation would not be adequately addressed by restricting content or arbitrary blocking, but by ensuring that the public has access to impartial and accurate information through public broadcasters which enjoy their trust. According to the Commissioner, the real answer to deliberate propagation of misinformation lies in ensuring media freedom and pluralism, notably by developing high-quality PSM with high professional standards and by building the trust of the audiences through truthful, responsible and ethical reporting.

Commissioner Muižnieks called on member states to draw on existing Council of Europe instruments and implement all of the principles and standards contained in the various recommendations to reinforce PSM organisations, and in particular guarantee their editorial independence and institutional autonomy, avoid politicisation, provide them with sustainable funding, appoint management and supervisory bodies' members through a transparent and merit-based process and ensure the necessary resources for PSM to produce quality programmes which reflect cultural and linguistic diversity, paying attention to minority languages.

Conclusions of the 2016 Conference "Public Service Media and Democracy"

The EBU, the Council of Europe and its Parliamentary Assembly (PACE), the Czech Parliament and Czech TV organised an international conference on Public Service Media (PSM) and Democracy in 2016. The conference addressed the role of parliaments in protecting the media; the impact of PSM on society; governance; how broadcasters deal with hate speech and the long term independence and sustainability of PSM in the region.

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111. Public service broadcasting under threat in Europe https://www.coe.int/en/web/commissioner/-/public-service-broadcasting-under-threat-in-europe

Conclusions and recommendations suggested by the conference participants are summarised below.

Independence and funding

The general conclusions of the conference "Public service media and democracy" in Prague shed light on the observation that despite the numerous adopted and ratified international documents and domestic laws two key problems persist: political interference in PSM's independence and their insufficient funding.[112]

The participants concluded in that connection that States should not only ensure the independence and sustainability of PSM, but also those of regulatory authorities.[113]

The participants noted that the implementation of relevant Council of Europe instruments should be strengthened, especially the following:

▶ Recommendation on guarantee of the independence of PSM,

▶ Recommendation CM/Rec (2007) 3 on the remit of PSM in the information society,

▶ Recommendations (97) 20 and (97) 21 on "hate speech" and on the promotion of a culture of tolerance.

Lawmaking

As regards changing the media laws, the participants resolved that any changes should be done after broad public debate and not in an urgent manner or through so-called "omnibus" legislation.

Appoinments, supervisory bodies

Balanced and transparent processes for the appointment of supervisory bodies' members are necessary. The PSM remit in promoting diversity and pluralism of European societies is not only relevant for PSM content production but should also apply to the members of the PSM management and supervisory bodies.

Transparency of ownership

The transparency of private media ownership is vital for PSM as well. Special attention should be paid to the interests of politicians who are linked to or have vested interests in particular private broadcasters, since this can weaken the role and funding of PSM.

Codes of conduct

PSM should have clear editorial guidelines and ethical codes across all platforms where they provide their content, with the aim of increasing their responsiveness and accountability towards their audiences and consequently solidifying public trust.

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112. International conference on Public Service Media and Democracy Prague 2016: Conclusions and recommendations by the conference participants, https://www.ebu.ch/files/live/sites/ebu/files/News/2016/11/Final%20conclusions%20Prague%2014112016%2017.43.pdf

113. Ibid

Hate speech

PSM can play an important role in countering hate speech and should abide by the restrictions deriving from the national laws, international conventions and other legal instruments and the Court's case law. Furthermore, PSM staff should be educated on the topic to ensure a high professional standard of reporting on hate speech, discrimination and stereotypes.

European Audiovisual Observatory: IRIS Plus report Governance and independence of public service media

This report addresses the various aspects of governance of public service media and its role in safeguarding the independence of these media. It traces the history and transition from public service broadcasting to the broader concept of public service media.

Independent public service media (PSM) are the cornerstone of a healthy democratic system; they provide citizens with a reliable and trustworthy source of information, fulfil the function of a public watchdog and provide a public forum where different opinions can be expressed. However, they can only fulfil this role if they enjoy independence form the government and other political and economic powers.

The report describes the different types of PSM and their respective funding models, as well as examining the key principles of PSM, according to the European Broadcasting Union: independence, accountability, transparency and sustainability.

The public service media are high on the European agenda at present, with a proposal for a European Media Freedom Act, an instrument of the European Union which includes safeguards to protect the independence of PSM, and ongoing work of the Council of Europe, which has established standards through different legal instruments of the Committee of Ministers and the Parliamentary Assembly, and through judgements of the European Court of Human Rights. The report thus continues with the presentation of the European regulatory framework applicable to PSM, and in particular the Council of Europe's Recommendation on Public Service Media Governance.

The report also analyses the case law relating to public service media, comparing the approaches of the European Court of Human Rights, on the one hand, and the Court of Justice of the European Union on the other.

As the regulation of PSM is nevertheless largely within the domain of States and therefore primarily addressed at national level, there is a great diversity of national models in terms of the PSM structure, funding, remit and governance. Some States have a long tradition of independence, while other are struggling to free themselves from the governmental control. Real independence, however, depends not only on the existence of an appropriate legal framework but even more so on its effective implementation.

In this light, the report also presents PSM governance in twelve Council of Europe and European Union countries: Austria, Bulgaria, Czech Republic, Finland, France,

Germany, Greece, Hungary, Italy, Latvia, Poland, and Slovenia. Each country profile includes an analysis of the structure of the national public service broadcaster and its legal form, its managerial and supervisory structure, the way key appointments are made, the safeguards concerning dismissals and ways in which the independence of the PSM is protected from political interference. The report also focuses on self-regulation and best practices to safeguard PSM independence, citing examples of the Spanish, German, Estonian and French-speaking Belgian broadcasters.

The report concludes with the key challenges to governance and independence of PSM, ranging from the impact of the progressive erosion of democratic foundations and the related threats to the institutional independence and editorial autonomy of PSM, to the threats generated by the market pressures and the digital content delivery with powerful platforms as new gatekeepers of media content, including that of PSM.

The report is accompanied by a comprehensive overview table on existing safeguards for the independence of PSM with regard to their governance.