



## Case study report

Does media policy promote media freedom and independence?

The case of Slovakia

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## **Project profile**

MEDIADEM is a European research project which seeks to understand and explain the factors that promote or, conversely, prevent the development of policies supporting free and independent media. The project combines a country-based study in Belgium, Bulgaria, Croatia, Denmark, Estonia, Finland, Germany, Greece, Italy, Romania, Slovakia, Spain, Turkey and the UK with a comparative analysis across media sectors and various types of media services. It investigates the configuration of media policies in the aforementioned countries and examines the opportunities and challenges generated by new media services for media freedom and independence. Moreover, external pressures on the design and implementation of state media policies, stemming from the European Union and the Council of Europe, are thoroughly discussed and analysed.

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### **Executive summary**

Overall, media policy in Slovakia does not promote media freedom and independence but rather prioritises or attempts to balance various conflicting fundamental values both at the level of its formulation and at the level of its implementation. There is one exception – the Constitutional Court which historically has shown a long-term, relatively consistent, and increasingly liberal commitment towards the protection and promotion of freedom of expression in the media, as well as to access to information in Slovakia. An important role here is also played indirectly by the European Court of Human Rights which is a standard-setter in these issues. The main internal regulator – the Council for Broadcasting and Retransmission – prefers somewhat limited media freedom. Media policy on structural regulation of the media in Slovakia is largely created *ad hoc*, rather than according to a clear strategy. Regarding content regulation, measures are more planned, encouraging diversification of media content. The role of political, corporate, economic or other interests in policy formulation and implementation is relatively limited, with much depending on the government in power. In particular, the role of the major journalistic organisation is seen as controversial, having very little prestige among the majority of journalists and little impact on the formulation and implementation (via the Press Council) of media policy. Behind the scenes lobbying, including lobbying in Parliament, seems to be more successful and significant in policy formulation while public debates on media policy issues are somewhat limited, usually rather poor in argumentation, and more often emotional than rational.

The study also proposes some solutions for the improvement of the general state of affairs in Slovakia which would further increase the role of the media and, ultimately, ensure greater freedom and independence for the media.

## 1. Introduction<sup>1</sup>

This report gives an overview of the key actors in media policy making and implementation, and an indication of the economic, interest group, Council of Europe (CoE), European Commission (EC), EU *acquis* and technological influences on media policy in Slovakia. The objectives of this report are to explain and normatively evaluate the key conditions that shape the formulation and implementation of media policy in Slovakia, examining whether such policy helps or hinders the free and independent operation of the media in Slovakia.

The section *Actors and values of media policy* discusses the key issues and problems faced by the key actors participating in media policy development and application; it examines the values and priorities recognised as relevant in the process of media policy formulation and implementation. We identify four (or *de facto* five) such key actors, among which there are interesting variations in normative values. We identify the judiciary as playing a very important though ambiguous role in the free and independent operation of the media in Slovakia. The main regulatory body, the Council for Broadcasting and Retransmission (RVR) has conservative values, thus relatively hampering the free and independent operation of the media in Slovakia. The other two (or three) key bodies who shape the implementation of media policy, reflect social or party-ideological normative values in their media policy making (or lack thereof).

The section *The structure of the media market* examines the formulation and implementation of legal rules and other policy tools related to the configuration of the media market and the establishment of media outlets (both traditional and new) in Slovakia. There are no fundamental or unusual problems in this area. The influence of vested interests is relatively low and various other problems (e.g. lack of transparency concerning multiple layers of ownership of broadcast media) can also be found in other countries. Historically, we have noticed a transition from one theoretical model of media policy to another. In addition, one model can be identified in the case of the press, and another in the case of broadcast media - especially public service media (PSM).

The section *Composition and diversification of media content* focuses on the formulation and implementation of legal norms and incentive measures concerning the composition and diversification of media content, both for traditional and new media services. First of all in this section, we compare various content analyses of the media against the regulatory framework of the same media. In other words, we are concerned with how, if at all, regulation influences media content. Secondly, we compare the attitudes of various levels of courts on the one hand, and the main regulatory body on the other, towards freedom of speech and the press.

The section *The journalistic profession* deals with the education and nature of the journalist profession, and the extent to which it is shaped by external and internal forces. We identify various minor and major problems in this area, but we also challenge some established “truths” about the journalistic profession, and disprove

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some popular solutions which have been proposed to improve the standard of journalism in Slovakia.

Finally, the section *Media literacy and transparency requirements* examines the attention afforded to media literacy as a goal of media education in the broader sense by domestic media policy, bodies and institutions, and considers the results achieved. This section also identifies the major problems in the implementation of media literacy education throughout the media and/or for adults in Slovakia. Convergence and its effects on media regulation and policy are addressed throughout the report.

This report is based on in-depth research, including not only primary and secondary sources, but also more than 40 interviews with media professionals and experts in various fields. In addition, we used an online questionnaire with up to twenty questions sent to over 200 media professionals from all types of media (local, regional and state-wide) and with nation-wide scope (covering all regions of the country), achieving a response rate of 25%. Some sections went through an external peer review process and this proved to be extremely helpful, ultimately improving the quality of our report.

The most challenging aspect of the research was the evaluation of the significance and truthfulness of societal (media, professional, academic) discourses. In this endeavour, the media served as a spotlight which highlighted possible problems but at the same time sometimes exaggerated or underestimated them, rarely offering any deeper analysis.

## 2. Actors and values of media policy

**The key bodies in media policy formulation are the Ministry of Culture (MC) and the National Council of Slovakia (Parliament).** The MC prepares most media policy drafts and laws, sometimes with the tacit help of the Board for Broadcasting and Retransmission (RVR). The Parliament approves these drafts or, occasionally, initiates its own drafts, as well as electing members of the RVR, and indirectly guides and supervises the key media regulator – the RVR. It has sometimes happened in the past that the executive power - in an attempt to circumvent standard policy formulation processes - has submitted governmental draft laws directly through Members of Parliament.

**A special case is the Coalition Council (CoCo)** - the ultimate political body outlining fundamental aspects of media policy. The CoCo (or rather the political parties who create the CoCo) has its quasi-expert sections which are usually composed of a combination of professional politicians who specialise in some issues, including the media, and ideologically close activists. The Government (through the MC) and the Parliament follow the CoCo decisions and/or the key policy goals as stated in the Manifesto of the Government, which is enacted not later than 30 days after formation of the cabinet.

**The key actors in media policy implementation are the judiciary and the RVR.** In its rulings the judiciary defines the limits of freedom of speech and the press, as well as the conditions for access to information in general and in the media in particular. Further, the judiciary quite often reverses or confirms the regulatory decisions of the RVR.

The RVR is a (semi-) state regulatory body responsible for digital/electronic media, the most important media segment in Slovakia. The RVR has passed some decisions in the past which were seen as controversial by experts, journalists and politicians (including the Prime Minister), and certainly limited freedom of speech and the broadcast media. A small – but perhaps critical – number of RVR decisions, which also included issues related to freedom of speech and the media, were overturned by the judiciary. The RVR sometimes serves as a ‘technical’ tool for media policy formulation by the MC. In other words, the RVR sometimes, on request of the MC, prepares drafts of broadcast media legislation.

The protection and promotion of freedom of expression and freedom of information is certainly neither a key element in, nor a long-term strategy for the development and implementation of media policy for, the above mentioned institutions in Slovakia. There is **only one institution – the Constitutional Court (CC)** as part of the judiciary – which historically **has shown a long-term effort towards the protection and promotion of freedom of expression and the media, as well as access to information in Slovakia.**

However, in themselves, constitutional rules concerning the freedom of expression and freedom of information do not seem to influence the adoption of particular regulatory patterns for the media in Slovakia. More influential is tradition, foreign examples/directives, and state pressure to regulate. For example, broadcasters claim that they would introduce self-regulation in broadcasting if there was not state (public) regulation. Similarly, publishers introduced self-regulation in the press sector, rather than having state regulation imposed. Advertisers also introduced self-regulation to prevent state regulation in this area, as well as to follow foreign examples.



It merits note that in the case of disputes between parties to self-regulation, as well as between parties to these instruments and third parties, the content of the rules adopted is not subject to judicial review. In the case of public (state) regulation, judicial intervention is of course possible (a broadcaster can appeal to the Supreme Court (SC), or in some cases, to the Regional Court). There is also a limited possibility that the CC will accept a complaint issued by a broadcaster that its constitutional rights have been violated.

## **2.1 The Ministry of Culture – less competent and normatively colourless**

While in the mid-1990s the MC had attempted to literally direct the media, in the second half of the 1990s and the early 2000s it gave them freedom but not, with some exceptions, support. The MC exhibited clear, though partly contradictory, media policy goals under the social democratic Minister M. Maďarič (2006-2010) and the liberal Minister D. Krajcer (2010-2012). On the one hand, the social democratic minister focused on multi-source financing and the efficient collection of fees to support the PSM, as well as independent audiovisual production, while on the other hand, he focused on stricter rules for media reporting and greater rights for individuals and institutions who felt damaged by media reporting. The main priorities of the liberal minister were stable, but also more state-sponsored, financing of the PSM as well as increased efficiency, and at the same time, more liberal rules in media reporting.

The MC, as the key body defining the values of media policy making (not only) under the government of I. Radičová (summer 2010-spring 2012), has an overarching principle of keeping the *efficient* (underlined in the 2010 Government Manifesto) public service mission of the PSM (see MC 2010b; Krajcer, 2010 and Manifesto of the Government for 2010-2014). This new legitimate focus on efficiency has necessarily created a new long-term legitimate pressure on the PSM which potentially threatens its freedom and independence. There has always been pressure on PSM, initially mainly political, but currently these pressures are related to efficiency or financing in general, including pressures from vested interests. Indeed, past political and vested interest intervention into the functioning of PSM, as well as overall inefficient management have been openly recognised by the MC (though this latter assertion was only partially true, resulting from a trap created by legislation which did not allow efficient management).

Nevertheless, it seems that the dual media system, wherein private media are a more or less intrinsic counterpart of the PSM in a liberal democracy, with the latter balancing the negative features of the former, has not, since its introduction twenty years ago, been an openly contested value. However, the incantation ‘PSM’ was often paid only lip service by various governments. Also, this policy value (the dual media system and - more recently - its efficiency) can also be seen as leading to conservative media policy – the status quo preventing the reorganisation of the media system in Slovakia.

Indeed, in Slovakia there is little serious and innovative academic thinking on media policy in general, and on PSM in particular (Školkay, 2006). For example, as pointed out by Šípoš (2010a), even the official 551-page long-term ‘vision’ and ‘strategy of development’ of Slovak society, prepared mostly by scientists from the Slovak Academy of Sciences in early 2010, underlined only the negative aspects of the private media, while PSM was presented as an ideal. In other words, even the extensive, government-sponsored ‘strategic policy’ material was of dubious scientific

and practical quality, portraying private media mostly negatively, and PSM in a utopian-normative way but without proper factual evaluation and/or suggested methods of how to achieve these ideal normative goals.

Furthermore, although almost every MC established its advisory body or other bodies in media matters, these bodies mostly served as non-binding commentators on major policy initiatives.

In addition, although the MC under the liberal Ministers F. Tóth (2005-2006) and R. Chmel (April-July 2006) prepared the Strategy of State Cultural Policy, including a blueprint for its Action Plan, there was nothing about the future of public service radio and television, and little about support for minority media. In spite of its ambition to become a long-term programme, crossing parliamentary terms, this strategy died with the new government in power the same year.

A previous effort, the even more voluminous Declaration of the Parliament in the Protection and Development of the Media Environment, prepared under the auspices of liberal Minister M. Kňažko in 2001, was also unsuccessful in creating a consensus regarding long-term media policy.

It is little wonder then that in this non-consensual and non-professional environment, the methods of the I. Radičová government to achieve the goal of ‘strengthening’ public service merit and the efficiency of these media also became controversial (see chapter 3).

In the print sector, an amendment to the Press Law was prepared in 2010/2011 and passed in May/June 2011. This amendment softened some obligations in the case of rights to reply/correction, and abolished some financial compensation in the event of the breach of these rights (see *Rozpracovanie*, MC 2010e: 9-10). Overall, these changes can be seen as a positive move for the free and independent work of the media. Yet some of these modifications represented steps that were neither necessary nor useful for rational public political discourse. For example, the changes in the Press Act limited the legal rights of public figures to reply or comment on factual statements with respect to their public activity. This modification was demanded by the then opposition leaders (in government during the preparation of this amendment). Obviously the publishers were against any right to reply. Thus, representatives of various erstwhile opposition parties who had criticised R. Fico’s Press Act as being contrary to freedom of the press, significantly changed their opinion on these issues once actually in government/parliament (Hrabko, 2011). This case further illustrates how quite often criticism of media legislation by the opposition is more political than professional. In short, media legislation is not free of politicisation – in fact the contrary is true. Therefore, the free and independent development of the media faces the hurdle of politicised or docile media legislation which does not necessarily serve the wider public interest.

In summary, the position of the MC as a political body, by definition gives its staff colourless normative values in media policy. The goals and achievements of the MC are to a significant degree formed by the professional and ideological background of the minister or state secretary, as well as their political support inside the Government or coalition political party. In general, the MC has rarely been seen as a politically or economically important ministry in the past. We also met with repeated criticism from a number of external professional observers who questioned the intellectual and managerial capacity (and achievements) of some of its top civil servants.

## 2.2 Parliament – sovereign but easily influenced

Since Slovakia is a typical parliamentary republic (although it has moved slightly closer to a semi-presidential system following changes in the Constitution in November 2011, after the vote of no-confidence in the Cabinet), the Parliament is constitutionally the most important body of state. However, in practice, as Slovakia has continuously been governed by coalition governments over the past two decades, the Parliament has effectively become subordinated to executive power – the Cabinet (Láštic 2006). Nevertheless, there is still room for *ad hoc* political initiatives from individual MPs or small political groupings. For example, in the summer of 2011, the Parliament approved a proposal from a marginal group of MPs (OKS – Civic Conservative Party) which would punish the public denial of crimes of communism and fascism at the same level as denial of the holocaust. As put forward by OKS MP, Peter Zajac (2011b), *'freedom of speech has in our country - with respect to the historical exceptionalism (singularity) of fascism and communism – an exceptional position, since the denial of the crimes of communism and fascism is as brutal as were their crimes'*. Further, *'punishment of the public denial (of crimes of communism and fascism) is an act towards the protection of truth'* (Zajac, 2011a). Another MP for this political party, Peter Osuský, argued that it was necessary to adopt the perspective of the communist and fascist regimes' victims (Osuský, 2011). At the same time, this marginal group of conservatives defended the Freedom of Information Act (FOIA), creating ambiguity about its ideological and intellectual consistency. In other words, if one prefers free access to information, why at the same time deny the right to free discussion on controversial issues?

Thus, from time to time a minor political group can unnecessarily limit freedom of expression for the whole society. The main arguments in favour of limiting freedom of speech in parliamentary debate were indeed 'keeping historical memory alive' and the 'preservation of truth'. Opponents, including the Minister of Interior and some well-known historians (e.g. I. Kamenec and D. Kováč) argued that these legal changes were unnecessary steps towards abridging freedom of speech and the press, as well as a tool with possibly fuzzy practical application. I. Kamenec (2011) argued that this approach (the regulation of historical discussion through legal norms) was, in fact, typical of totalitarian regimes. There was also a legalistic argument: it was already possible to punish identical crimes within the existing sanctions of the Penal Code.

The public debate on this issue was rather limited, one-sided and ideologically motivated (similar to other public debates, see e.g. Morvay, 2011, Hanus and Majchrák, 2011: 19). The standard left argued that it was misleading to compare communism with fascism since there were significant differences in mass support, as well as in the intellectual argumentation. There was also a dispute over whether it was incorrect to narrow both ideologies solely to their dictatorial features, and that although there was dictatorship in both cases, there was a qualitative difference between the two (Polák, 2011). However, the substance – why it is a bad idea that the public denial of crimes of communism and fascism be made a crime – was not really discussed. The liberal left focused - in a sense - on the trivial fact that an MP for the Christian Democratic Movement defended the semi-fascist WWII state regime in a parliamentary debate (Kasarda, 2011). In short, this argument did not focus on the substance of the issue either.

In summary, the Parliament is by and large a 'rubber stamp' body in Slovak coalition politics, including in the area of media policy. Still, some minor and

unexpected initiatives can be passed by the Parliament, as the above case shows. Indeed, the above-mentioned case represents a situation where the Parliament was prepared to discuss various changes in the Penal Code and ended up passing a completely unexpected but significant change to it, limiting freedom of speech and the press, with little (and poorly argued) political or public debate. This also illustrates the extent to which legislation can be changed during parliamentary debate.

It should be mentioned that among top media representatives there is also general distrust of the competence of politicians (MPs) who claim to be media experts. Among the general citizenry, trust in the Parliament was also rather low in September-October 2011 with less than one third claiming to trust Parliament and two thirds clearly stating they did not trust the Parliament (Mesežnikov and Gyárfášová, 2011: 1).

### **2.3 The courts – confused, cotton wool, but also the guardians of freedom of expression and access to information in Slovakia<sup>2</sup>**

The courts play an important role in broadcast regulation, but their role is often neglected in studies on regulation. The role of courts is also key in libel and defamation cases (see Wilfling and Kováčeková, 2011: 33). Indeed, it can be safely argued that the only body in Slovakia with freedom of expression and freedom of information as an overarching principle guiding its activities is the CC (see Procházka, 2009: 40).

Although it is difficult to generalise, there seems to be a problem with decision-making in cases related to freedom of speech/access to information and/versus the protection of personal rights in the majority of lower courts, especially outside the capital city; but there are also some controversial decisions by some Senates of Regional Courts and, less so, some Senates of the SC. Nor is the CC fully consistent in its rulings due to the occasionally different rulings of its Senates in identical issues (Fila, 2011, Lálík, 2011), although it does prefer freedom of speech and the press in relation to rights of public personalities, and demands consistency in the rulings of other courts (PL ÚS 16/05, II. ÚS 80/99). In addition, the CC has not offered clear rules in cases related to determining an adequate amount of reimbursement for non-pecuniary damages in cases concerning protection of personal honour and dignity (see *III. ÚS 238/08*, Wilfling and Kováčeková, 2011: 38).

Although all courts claim to take into account ‘all aspects’ of a court case, there seems to be a soft preference for the protection of dignity/honour, especially in the case of public figures (see also Wilfling and Kováčeková, 2011: 50). In particular, lower courts tend not to attach sufficient value to the ‘public interest mission’ on the part of the media. Courts usually do not consider whether the media acted in ‘good faith’ (see e.g. *Ringier Axel Springer Slovakia, a.s. v. Slovakia 2011* and *RADIO TWIST, a.s. v. Slovakia 2006*, *Klein v. Slovakia 2006*).<sup>3</sup> The justification of this legal attitude shows more clearly in comparison with the Czech Republic, which by and large shares identical legislation and legal tradition, although the approach of Czech courts is more liberal (as is the society), giving more rights to the media. This can be seen in the difficulty of finding any relevant ECtHR judgments on Czech media-journalism related cases. At the same time, it seems that Austrian courts

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<sup>2</sup> This section was reviewed by Dr Lucia Mokrá from the Faculty of Social and Economic Sciences, Comenius University, Bratislava.

<sup>3</sup> See the case law of the ECtHR at the Netherlands Institute of Human Rights, available at: <http://sim.law.uu.nl> (date accessed 20 November 2011).

are more similar in their approach to freedom of speech and press to Slovak courts (see *Albert-Engelmann-Gesellschaft mbH v. Austria* 2006, *Krone Verlag GmbH & Co KG v. Austria* (no. 5) 2008, *Verlagsgruppe News GmbH v. Austria* 2006, *Österreichischer Rundfunk v. Austria* 2006, *Kobenter and Standard Verlags GmbH v. Austria* 2006, *Standard Verlags GmbH v. Austria* 2006, *Standard Verlags GmbH and Krawagna-Pfeifer v. Austria* 2006 and the case from 2010<sup>4</sup>). It is important to mention this comparative dimension, which puts the Slovak case into a less radical or less negative perspective. It should be noted that Slovakia shared much of its modern history with the Czech Republic and Austria.

Our mini-survey among journalists and editors suggests that 46% have an ambivalent opinion on the role of the courts in safeguarding the free and independent work of journalists in Slovakia, while 30% claim that the courts actually rather hamper their free and independent work. Only 3.5% of journalists believe that the courts actually help in the free and independent work of the media.

In general, the quality and speed of the decision-making of courts/judges is seen as unsatisfactory in Slovakia (Matijek, 2011). There is also a deeper problem of the judiciary which is closely related to its self-regulation (Leško, 2011). The chair of a Senate of the SC, Judge Darina Ličková, summarised the well-known long-term problems of the Slovak judiciary as the unreasonable length of time for decisions to be made, the low quality of judges and their rulings, the low standard of execution of post-court agendas (e.g. execution of sanctions), the low quality of administrative staff, and insufficiencies in the system of on-going education of judges (Ličková, 2011). These problems have been clear for a number of years and have been noted by various governments.

It is, however, true that better argued and more liberal decision-making can be found in higher courts, especially the SC and the CC. There is also a consensus that the SC has been more involved in broadcasting regulatory issues in recent years.

Clearly the problems of the judiciary are - by definition - more visible and more symptomatic in cases related to competing rights in the case of (alleged or actual) libel and defamation committed by or in the media. The dysfunctional character of the judicial system has repeatedly been openly stated by the government and the Minister of Justice throughout 2011. Afterwards, the CC announced its intention to publish its most important rulings and findings in a shortened and easier to understand form (as know-how) on its website.

While previously most cases concerning the protection of character had been decided in the capital (where the majority of the national media have their headquarters), changes in legislation in 2006-2007 returned this competence to the domicile of the plaintiff. This shift has significantly lowered the quality of rulings of lower courts, especially outside the capital. The result, simply put, is that either the lower courts dismiss the case or give financial compensation for non-pecuniary damages of between 10-30 thousand euros. This latter outcome is typical (although not guaranteed) when the plaintiff is a politician, judge or celebrity. The justification for the large amount of non-pecuniary damages is troublesome. However, although significant financial compensation has been awarded for non-pecuniary damages in cases related to the media and protection of character (libel/defamation), this was not a real threat to the major media (and media houses) for the following reasons (local

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<sup>4</sup> See the case law of the ECtHR at the Netherlands Institute of Human Rights, available at: <http://sim.law.uu.nl> and 'Heiß diskutiertes Thema' [Hot topic] (25 September 2010), available at: <http://www.orf.at/stories/2016396/2016414> (date accessed 20 November 2011).

media are usually very careful in publishing anything sensitive related to possible libel/defamation cases).

First, the major media (especially, but not exclusively broadcasters) are profitable enough to cover such losses.

Second, the level of financial compensation finally received from the media owners represented only a fraction of the amounts initially requested (and publicised in the media) and awarded by the appellate courts. On average, these are estimated at approximately 10% of the originally requested amounts, although in some cases they did actually reach 30,000 euros and above. It should be noted that there are no clear limits on non-pecuniary damages in cases concerning the protection of character, although there are clear limits in cases related to reimbursement of damages related to pain and 'stypsis of social exercise'. This limit is set at 122,000 euros with annual approximation (i.e. this amount increases annually, following set criteria). Interestingly, judges and prosecutors must receive damages in the amount of at least double that stated in the law if this is related to their professional duties (Medved'ová and Kováč, 2005). In this context, it is certainly questionable whether reasonable proportionality was used when a Slovak judge received reimbursement of 100,000 euros for non-pecuniary damages in cases related to the protection of character, and a Slovak politician 30,000 euros. This is certainly contrary to the ECtHR judgement *Karhuvaara and Iltalehti v. Finland* (2004)<sup>5</sup>. In this case, the ECtHR argued that the severity of the fines and damages, when viewed against the background of limited interference with the plaintiff's private life, was disproportionate.

Third, in quite a number of cases the decisions of lower or higher courts were overturned, in some cases also by the ECtHR. Thus, finally only in about 20% of cases (an estimate) did courts actually award any financial compensation for non-pecuniary damages in media-related libel and defamation cases.

Plaintiffs have been more successful in getting public apologies, with about half of court cases being successful.

Nevertheless, sometimes even successful libel/defamation cases are seen as questionable. It seems that lower courts have difficulties in accepting (or being aware of) a very important ruling of the SC (4Cdo 15/03).<sup>6</sup> In this ruling, the SC very clearly stated under which conditions financial compensation can be awarded for non-pecuniary damages in cases related to the protection of character: "...it is necessary to take into account the reactions....This level must be checked by the evidence ...Only in cases when there is a sufficiently proven reaction confirming the lowering of dignity or reputation in society at a significant level, can reimbursement be exceptionally and subsidiarily given for non-pecuniary damages to a natural person."

Furthermore, where the amount of reimbursement for non-pecuniary damages is concerned, the SC argued: "*The determination of the level of reimbursement of non-pecuniary damages ...must always originate from the duly assessed factual state ....and absolutely concrete and visible points of view and evidence which would explain how, and in which way, the calumniated data ...touched upon the dignity or reputation of the plaintiff in society and with what negative consequences.*"

A decrease has been reported in the financial amounts requested in media-related libel/defamation cases since 2009. In addition, the major broadcasters prefer out-of-court settlements. This usually means lower financial compensation as well as lower legal costs.

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<sup>5</sup> See <http://www.5rb.com/docs/Karhuvaara-v-Finland%20ECHR%2016%20Nov%202004.pdf> (date accessed 23 November 2011).

<sup>6</sup> See *Justičná revue*, annex, 1/2005, vol. 57, 56-60.

At the same time, it should be mentioned that exceptionally, journalists have been prosecuted in libel and defamation cases based on criminal law (e.g. Gašparovič 2011). Exceptional cases were noted where journalists sued politicians as a result of journalistic work. In the most famous case, a former female TV journalist won a public apology from the former minister of economy (Šutková, 2008, Kováčeková 2010). Another ongoing case includes a male TV journalist from public TV who sued a former minister of health care for alleged violation of his dignity and honour. In the first round, the court dismissed his claim, but he then decided to file an appeal to a higher court. A new case was opened in autumn 2011. In this case, a female journalist did not sue a politician but an institution (the National Theatre) and one of its top managers. The essence of the case is an allegedly false and offensive response from the manager to a critical article which he published in the form of an open letter on the website of the institution and on his personal profile on Facebook.

An interesting recent trend has been noted where lower courts increasingly take into account the rulings of the Press Council (PrC). This is related to the fact that the chairperson of the PrC is a judge of the SC, and is thus seen by judges as a competent and/or trustworthy colleague. There was also a case when a judge of the Regional Court in Banská Bystrica, on his own initiative, used the Code of Ethics as an argument for unethical behaviour against a journalist who had sued a former politician. This may not be a very welcome trend since it undermines the very basis of self-regulation, out of the court settlements and voluntarily accepted self-regulation. In other words, if one mixes self-regulation with state-regulation via court rulings (i.e. resulting in possible dual punishment or at least using ethical rules or rulings before the courts), then there is no reason to promote or accept self-regulation.

The problem of lower courts is partly personal and partly organisational. In practice, both problems pose very negative consequences for freedom of speech and the press. The personal problem means that some judges are simply afraid of being criticised by and in the media, and/or are afraid to decide fairly in political or celebrity cases (e.g. when the plaintiff is a judge).

The organisational problem means that judges are not specialised, and thus have no in-depth knowledge of how to evaluate competing interests and rights in complicated cases related to freedom of expression versus the protection of character.

Therefore, it often happens that rulings of the lower courts in cases on the protection of character lack any logical and fact-based reasoning, or the reasoning is one-sided, especially regarding justification of the award of a certain amount for non-pecuniary damages (Wilfling and Kováčeková, 2011: 32-38 and 50). In many cases lower courts simply ignore the ECtHR case law, although the lawyers repeatedly point out specific similar cases decided by the ECtHR in the past. The lower courts very strictly demand correctness in media reporting, allowing little room for error, although the CC recently acknowledged the right of the media to reasonable simplification of information (Finding IV. ÚS 107/2010). Perhaps ironically, the lower courts follow the judicature of the SC to a greater extent, being afraid that their verdicts will be overturned by the SC.

Amendments have also been adopted in legislation related specifically to libel and defamation cases in recent years, which have made the position of the media (as the most frequent target of lawsuits) more complicated. First, as mentioned earlier, the hearings are held in the seat of the plaintiff. Second, all evidence must be presented before the first session of the court. Third, the initial fee paid is only 50% of the standard fee in civil cases.

### 2.3.1 The Supreme Court

The role of the SC is important as the most important arbiter in broadcast media regulatory issues and, to an extent, libel/defamation cases. The SC is also important as the final arbiter in the event that lower courts pass contradictory rulings or rulings contrary to earlier judicature (Majerský, 2007). However, it is more an issue of accident than of a deliberate process of seeking to unify judicature in the case of the SC. This is despite the fact that in the case of the RVR the SC has a database which would allow the checking of rulings from the last two or three years.

The SC is obliged by law to balance the quality of various rulings. Therefore, it is not surprising, but still worrying, that sometimes even Senates of the SC do not respect each others' rulings on regulatory issues. More importantly, the Senates of the SC do not explain their ignorance of other Senates' rulings. This is also the case when an almost identical decision in a particular matter is available. In fact, there have been several cases when various senates of the SC ruled differently on almost identical media regulatory issues (8Sžo/112/2010 and 3Sžo 200/2010, 6Sžo 55/2010 and 6Sžo 112/2010, 3 Sž/15/2008 and 5Sž/20/2010, 2Sž8 2010 and 3Sž 6/2010, 3Sž/18/2010 and 2Sž 10/2010, 3Sž 1/2010 and 8Sž2/2010), and at least one case when the same Senate of the SC decided differently at different times on virtually the same regulatory issue. Some of the above-mentioned inconsistencies can be explained by drawbacks in legislation (e.g. the lack of a transitional period between two acts), or by different demands of the plaintiff (the courts take into account only the merit of the action in court, and there is no consensus as to whether the courts should deal with issues *ex officio*). As expressed by the Chairperson of the Administrative Collegium of the SC, Ida Hanzelová, *'the issue of regulation of electronic media through RVR decisions and court judgments is relatively new, and developing rapidly, thus differing views on the part of these authorities on the interpretation of certain terms can be expected. Inconsistent and ambiguous legislation has led to particular difficulties for the RVR decision-making process and the courts, which raises the need for partial interpretations of gradually evolving views and solutions. Although desirable, conditions have not existed recently for such specialization of judges'*. The Chairperson also offered a written explanation on the differences found in some of the above-mentioned, seemingly contradictory rulings.<sup>7</sup> However, the RVR offered its own analysis of all three cases explained by the Senate of the SC and it argued that in general: *'The SC statement focused on irrelevant differences in legal substance, which do not in themselves justify a different legal approach under current legislation. Should the SC deem those differences to be of such significance to alter their ruling based on them, then it would seem necessary to provide guidance to the regulator on how to proceed in future administrative procedures.'*<sup>8</sup>

The CC also stated that although the legal verdicts of general courts do not have the status of precedence which would be binding on other judges to decide similar cases identically, nevertheless such contradictory conclusions in similar cases do not contribute to the fulfilment of the main principle of legal certainty, nor towards trust in a just court process (Finding of the CC, 4 January 2007, III US 300/06, see also Finding of the CC 14. September 2006, No. IV. US 49/06). Thus in the Slovak case, judicature is not a source of the law but is *de facto* binding. Direct legally binding effects are acknowledged only in the findings of the CC.

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<sup>7</sup> Email from Ida Hanzelova, ida.hanzelova@nsud.sk, 15 December 2011.

<sup>8</sup> Email from Dr Barbora Paulínyová, Head of the Legal and Licence Department of the RVR, barbora.paulinyova@rada-rtv.sk, 15 December 2011.



At the same time, the SC has issued some important decisions, for example, its decision 4 Cdo 171/2005 in which the SC criticised extreme amounts of reimbursements for non-pecuniary damages, and has stated some general principles (Wilfling and Kováčechová, 2011: 38).

It should be mentioned that there have been controversies around the personality of the chair of the SC, Š. Harabín for many years, always under coalitions of liberal and centre-right governments. His peculiar managerial style (Wienk, 2011a) and controversial management of the SC has caused a number of complaints to the CC and the Police from the Minister of Justice in late 2011. It is important to mention these facts here as this case has had an impact on the dysfunctionality of the judiciary in Slovakia.

### **2.3.2 The Constitutional Court of Slovakia**

The CC is not part of the general court system, and thus cannot be seen as being institutionally the direct superior body to the general lower court system. However, the CC can intervene in the decision-making of the general judicial system if general courts contravene the basic rights and freedoms of individuals as guaranteed by the Constitution, or international treaties on human rights and fundamental freedoms, international treaties whose execution does not require a law and international treaties which directly establish rights or obligations of natural persons or legal persons and which have been ratified and promulgated in a manner laid down by law (Article 7 paragraph 5 of the Constitution). The Constitutional Court, as a national court is obliged to also apply international treaties guaranteeing human rights and fundamental freedoms. For example, this can be the case if general courts do not maintain the principles of an orderly and just legal process, or if they make decisions in *'extreme contradiction to fact-findings or with the principles of justice or in an arbitrary way'* (Finding of the CC I. ÚS 155/07 from 3 December 2008, article 27). In such cases, general courts are obliged by Article 56 sec. 6 Act on Constitutional Court to respect (and implement) the legal opinion of the CC. Due to 'arbitrariness' the CC cancelled 149 general court rulings (including many rulings of Regional Courts and some of the SC) in 2009 and 2010 (Macejková, 2011a). However, recent fundamental legal disagreement (or indeed, disobedience on the part of the Regional Court) was noted between the Regional Court and the CC in one of the most controversial cases on protection of personality with respect to the amount of reimbursement of non-pecuniary damages. In December 2011, the Regional Court in Bratislava ignored a legally binding recommendation of the CC from June 2011 (I.ÚS 408/2010) in which the CC considered the amount of 33,000 euros awarded for non-pecuniary damages to the former Minister of Justice (in 2011 the chairperson of the SC), Š. Harabín, firstly by the lower court (19C 139/2005) and later confirmed by the Regional Court (6Co 392/2007) as inappropriately high. It should be noted here that the CC accepted that a public apology to Š. Harabín on the part of the publisher was legitimate. This case was also interesting from the point of view that Š. Harabín objected to all members of the previously originally selected Senate of the Regional Court, and partially succeeded in these objections (see the SC - 5 Nc 25/2008, 3 Nc 30/2008).

The CC constantly and consistently applies the findings and rulings of the ECtHR. The impact of the ECtHR is more important for the liberal decision-making of the CC than any other factor, including the relatively low average age of judges of the CC which was 54 years in 2011 (curiously enough identical with the average age of the members of more conservative RVR). However, as mentioned, the CC is also

not fully consistent in its overall rulings and findings. A former judge of the CC argues (Drgonec, 2008b: 34) that the CC, but also general courts, change their legal opinion unpredictably and unexpectedly, without any notification of change, and often without giving any explanation. Similarly, Slašťan (2008: 1001) criticised the CC due to its unstable, imbalanced and arbitrary judicature.

The CC finds another inspiration in the rulings and decisions of Czech courts due to their common history and linguistic similarity, especially the Constitutional Court of the Czech Republic.

The CC has issued 17 rulings with respect to freedom of expression and access to information in the last nine (2002-2010) years. Some re-affirmed its previous rulings and findings. In the majority of 'findings' (13) it was confirmed that constitutional rights had been violated. Interestingly, this represented less than 10% of all complaints (125 in total), of which the majority did not qualify for formal reasons. Among those that did not qualify were 18 complaints from various publishers and broadcasters. There was a rapid increase both in the total number of complaints, as well as in the number of accepted complaints over 2008-2010 (Macejková, 2011c). The analysis in chapter 4 will show how various particular principles related to freedom of expression and access to information are balanced and prioritised by the CC.

It should be noted that both the SC and the CC shared almost identical levels of trust/distrust in a nation-wide representative survey conducted in September/October 2011, with distrust prevailing in both cases (Mesežnikov and Gyárfášová, 2011: 1). These results suggest that the public clearly makes its judgments based rather on occasional negative media reporting than on its own (by and large non-existent) experience, and, consequently, that the media reporting does not give fair treatment to the CC, at least as far as its rulings in cases of freedom of speech and the press are concerned. Alternatively, the public does not differentiate among various levels of courts. Finally, it is possible that this level of trust/distrust reflects an overall low level of trust in all state institutions except for the Presidency.

### **2.3.3 The European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR)**

The ECHR is a potential source of law with potential superiority over the law of Slovakia if it guarantees a higher (broader) scope of freedom of speech, right to information, or other basic rights. However, Drgonec (2008a: 1505) argued that in fact the ECHR puts more limits on freedom of speech and the press than the Constitution of Slovakia. Nevertheless, the chairperson of the CC, Iveta Macejková (2011b: 3) underlined the practical importance of the case of law of the European Court of Human Rights (ECtHR) because *'a number of important (legal) questions have not yet received intra-state interpellation in the rulings of the CC, thus the case law of the ECtHR fills a vacuum in the domestic legal order'*.

There is an explicit legal duty of general civic courts (interestingly, not criminal courts) to take into account the relevant judicature of the ECtHR in their decision-making. This duty has been re-affirmed in Finding IV. ÚS 107/2010 of the CC. It should be noted that in Slovakia the ECHR has priority before the law but not above the Constitution (this is similar to Switzerland, the Czech Republic and France). In Austria the ECHR is part of the Constitution, while in Germany and Italy the ECHR equals simple general law (Poláková, 2006).

It is true that the regional higher courts usually consider the case law of the ECtHR, but sometimes their interpretation can be erroneous (for instance on the issue of the right to privacy of politicians). Regional higher courts are also more critical towards high reimbursements for non-pecuniary damages. This can be seen as a result of greater familiarity with the (de facto) judicature of the ECtHR, which warns of the ‘chilling effect’ on freedom of speech in the case of disproportional or unpredictable sanctions (*Tolstoy Miloslavsky v. UK*, *Sorguç v. Turkey*, *Filipović v. Serbia*, *Steel and Morris v. UK*, *Público-Comunicação v. Social, S.A. v. Portugal*, see more in Wilfling and Kováčeková, 2011: 23-29).

We have noticed only one significant case related to freedom of expression and the media where there were difficulties in the implementation of an important ECtHR judgment. In *Klein versus the Slovak Republic*, which was decided by the ECtHR in favour of the journalist Klein, the Senate of the SC initially dismissed the complaint against breaking the law submitted in favour of Klein by the Minister of Justice in 2007. The SC initially argued that it was not constrained by the legal opinion of the ECtHR. The Senate of the SC argued that the Criminal Code does not deal with the legal consequences of ECtHR decisions vis-à-vis the decision-making of the general courts in Slovakia. The Senate of the SC acknowledged the importance of the ECtHR legal opinion, yet argued that this ECtHR ruling should be seen as a signal for changes in national legislation. The SC also argued that the protest by the Minister of Justice was based on constitutional law, not standard criminal law. Therefore it also had to dismiss this protest on these grounds.

After protest by the Representative of Slovakia before the ECtHR, the lower general court re-opened the penal process against the journalist Klein, and on the basis of the ECtHR’s decision annulled the previous decision of the criminal court. Finally, the chair of the Criminal Division of the SC stressed in a letter sent to the Representative of the Slovak Republic before the ECtHR that this Division respected the duty of the state to follow the legally binding decisions of the ECtHR as well as the direct consequences of the Convention.

In summary, the courts in Slovakia play an ambiguous role in issues related to freedom of expression, freedom of press, protection of character, and access to information, and in confirming or reversing the decisions of the broadcast media regulator.

Fortunately, at least the last internal resort – the CC – is progressive and follows the ECtHR rulings, although there are occasional problems with inconsistencies among its various senates’ rulings. This unique position of the CC has been recognised in recent years by local lawyers. This is evidenced not only in the above analysis, but also in the increased number of complaints the CC has received in recent years.

The ECtHR has had a slow but increasingly greater significance for media freedom in Slovakia. This can be indirectly confirmed by the unusually high number of complaints both accepted and dismissed by the ECtHR concerning Slovakia in 2010.

## **2.4 The EU Charter on Fundamental Rights**

The EU Charter on Fundamental Rights (ECFR) as a new, and by and large unknown document in Slovakia (even among judges), has so far had no impact on media policy in Slovakia or on media freedom. This zero impact is clear; there is no relevant judicature. Mazák and Jánošíková (2011) argue that the ECFR is a source of primary

EU law. The authors also believe that there will be possible alternative interpretations of the ECFR, primarily due to its 'chaotic construction' (p. 169). At the same time the authors believe that the new quality of basic rights guaranteed by the ECFR contributes to citizens' legal certainty. However, the authors also claim that the ECFR is only relevant for national cases if intrastate law is somehow related to EU law (pp. 172-174). The ECFR is seen as equal or possibly wider in the scope of its rights to the ECHR (p.175-176). In short, the ECFR is an additional legal tool for the protection of fundamental rights in issues when Slovakia acts within the scope of EU law. This is the framework in which general courts can use the ECFR, to test the legality of Slovak law, giving preferential treatment to EU law, and the CC can probe the constitutionality of the general legislation of Slovakia (p.179) confronting it with the ECFR. However, Strážnická (2006: 434) noticed, that in order to achieve efficient protection of fundamental rights according to the ECFR, there is a need to create an internal mechanism which would facilitate the effective execution of the rights guaranteed by the ECFR.

## **2.5 The other side of the coin – the Council for Broadcasting and Retransmission (RVR)**

The RVR can be seen as the other side of the coin – playing a rather negative role with respect to freedom of expression and the media in Slovakia, especially in contrast to the CC. Yet this normative evaluation can be seen less negatively if we compare Slovakia's RVR with similar regulators in EU countries such as France<sup>9</sup> and Poland,<sup>10</sup> which seem to be rather strict and/or conservative in broadcasting regulatory issues.

Our mini-survey among journalists and editors suggests that 37% have an ambivalent opinion on the role of the RVR with respect to the free and independent work of the media, and virtually identical numbers of respondents (15%) agree that the RVR either harms or helps the free and independent work of the media. The remainder – one third – were unable or unwilling to make any judgment on this issue. Be that as it may, we have identified the following characteristics of the RVR which explain its rather conservative role in regulating broadcast media in Slovakia.

First, the conservative role of the RVR is due to the higher age of RVR members. Seniority (the average age of the members of the RVR was 54 years in 2011) by definition leads to more conservative attitudes. The RVR, governed by the elderly, has a dominant supervisory role in the electronic/digital media sector (i.e. by definition, a kind of legitimate public censor). However, the age factor may not be

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<sup>9</sup> French media expert Bernard Lamizet argues that: 'Conseil Supérieur de l'Audiovisuel is quite strict, but not particularly severe', e-mail from 20 November 2011, [bernard.lamizet@sciencespo-lyon.fr](mailto:bernard.lamizet@sciencespo-lyon.fr). See also <http://www.csa.fr/upload/publication/Syntaglaisrap2010.pdf>, p.6 (date accessed 20 November 2011).

<sup>10</sup> See B. Klimkiewicz (2011), a study of Hungarian media laws in the European context, manuscript, p.151. Ms K. Polit, Deputy Director of the Presidential Department of the Polish NBC (KRRiT), denied both the conservative nature of the personal composition of the regulator as well as any ideological bias in the decision making of the NBC in the above mentioned controversial issue. Ms Polit argued that 'the NBC is a constitutional institution of five Ministers which are not members of any political party'. Also TVP S.A. did not question NBC's decision and did not rebuke the ruling presented in the attachment, e-mail from 5 December 2011, [Kamila.Polit@krrit.gov.pl](mailto:Kamila.Polit@krrit.gov.pl). Attached Ruling Nr 4/ 2010 indicated that the ruling of the NBC on this matter was based on alleged imbalance and lack of objectivity, including an excess of emotions, in covering this political-religious issue by the public broadcaster.

either a sufficient or a necessary factor to fully explain this conservative attitude, as the case of the CC suggests.

Second, and more important is its primarily political composition, thus reflecting ideological values rather than civic or professional values. Political parties do not pay relevant attention either to professional selection or the evaluation of performed/achieved results of RVR members, although an annual detailed report on RVR activities is presented in Parliament. As a result, although some members of the RVR have knowledge and/or professional experience in broadcast media, more than half have absolutely none. RVR members (in contrast to the recently established Council of the RTVS) still primarily represent the interests of political parties, with no official need for professionalism, although members of the Council of the RTVS also represent the interests of political parties, in addition to their knowledge of the media, economics and/or the law. In other words, members of the RVR are not even formally expected to be experts in the area they supervise. In the case of candidates for membership in the RVR, the conditions set in the law disqualify the majority of media professionals. The conditions for candidates were supposed to guarantee lack of the presence of the influence of any vested interests or other professional influences, thus practically all professionals (except theoreticians and *out-of-the-business professionals*) were excluded from candidature.

Yet there is some process of softening this clear ideological orientation of RVR elected members. New members are usually less competent, so they have to acquire new skills and a fresh overview. Furthermore, in later stages, if a member is still too ideologically motivated, s/he can feel isolated upon taking a too strong or one-sided position.

Third, overall low professional media competencies (not the competencies of the professional staff but of the decision-making body) are a factor. Actually the staff presents position documents which are liberal as regards limits of freedom, but the RVR at times (in an estimated 5% of all cases, but often among the most controversial) does not accept these liberal positions, and takes a more conservative approach towards freedom of speech and the press. In this respect, the most controversial regulatory issues are 'objectivity and balance' in news broadcasting and the protection of minors.

Implementation of media policy by the RVR is essentially a bureaucratic process. In controversial cases, there are often two alternative proposals for members to decide. This suggests an attempted unbiased approach to RVR decision-making.

The RVR has - by and large - sufficient monitoring and sanctioning powers. In fact, there seems to be over-regulation of the broadcasting sector. This is overtly claimed to be a result of EU directives, although it seems more likely to be self-inflicted regulation (we will discuss this issue in chapter 3, but a case in point is the process of notification in the case of AVSoD – (Audiovisual Services on Demand) - which is compulsory under the threat of a fine, but also the regulation of human dignity in the Broadcasting Act). There are also rare cases when RVR members internally initiate legal action against the media. However, although there was a multiple increase in the agenda (mainly because of complaints) in the last decade, the standard monitoring of broadcasting by the RVR staff is still limited to two or so cases annually.

The RVR disseminates information about its activities on its website. However, there was a problem with the quality of the information provided and with the very limited and outdated information provided in English. Our research contacts have prompted this institution to update its website content, apart from the English

language version. The RVR has also increased its personal communication and contacts with representatives of broadcasters in recent years. Broadcasters would like the RVR to increase its preventive (pro-active) role in electronic media regulation, i.e. with increased recommendations and advice. There is also a call for consistency in the decision-making of the RVR, thus increasing the predictability of future decisions. In addition, TV broadcasters were critical of the fact that almost all attention to monitoring by the RVR focused on television broadcasts, leaving radio broadcasters a freer hand (most complaints do, however, concern TV broadcasting). Finally, bureaucratic procedures should ideally include a more detailed explanation of why a certain appeal against a decision/ruling of the RVR was dismissed.

Social media and the Internet have in recent times enabled various pressure groups to put coordinated pressure on the RVR. For example, the RVR in a few weeks received hundreds of - apparently coordinated - written protests (e-mails) in the case of a reality show by a major broadcaster in the summer of 2011. The complainants organised themselves through social media and used e-mails to address the RVR.

The political plurality of the RVR is guaranteed by the bi-annual rotation of a third of its members, in addition to the normally four-year term of the Parliament. There is also only limited financial independence, with the annual budget being negotiated with the Ministry of Finance, and collected fines being fed into the state budget.

There are some problematic monitoring and enforcement powers in the area of retransmission. First, the provider of retransmission must be informed in advance and give consent to the monitoring of its retransmission. Obviously, this leads to inefficient monitoring. This rule is positive from the point of freedom and independence of the media but can be seen negatively from the point of view of other rights, such as copyright.

Second, foreign providers of retransmission have fewer duties than domestic providers. In fact, they have no duties vis-à-vis the Slovak legal media system. This leads to an unfair market advantage, since satellite providers of retransmission can offer Czech TV programmes without permission. While in the Czech Republic copyright infringement is subject to private civil law, and the local regulator has no competence in this regard, the Slovak regulator is obliged by law to demand respect of copyright in broadcasting. The technological developments thus, in spite of strict national regulation, enable, as an unintended consequence, more freedom and independence for the media (or rather for transmission operators).

Third, there are also controversies (among broadcasters and inside the RVR) with respect to the watershed content for programme broadcast.<sup>11</sup> It appears that the MC as the state body responsible for this sub-legislation is reluctant to correct the existing problematic definitions and the application thereof. Some sources claim that this is possibly due to pressure from the major TV broadcasters. It should be mentioned that the RVR has twice attempted to initiate changes in this sub-legislation, but the MC under two successive ministers remained deedless, only promising to incorporate the desired and necessary changes in an amendment to the law. This signals that broadcasters' freedom dominates over the interests of concerned viewers, particularly parents of teen-age children.

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<sup>11</sup> See [http://en.wikipedia.org/wiki/Watershed\\_%28television%29](http://en.wikipedia.org/wiki/Watershed_%28television%29) (date accessed 23 November 2011).

There are some problematic features of broadcast media legislation. More specifically, the definition of broadcasting is split into two legal norms (Act on Broadcasting and Digital Act), and there are other problematic definitions in the Digital Act. A more serious problem seems to be the right of the RVR to define a 'political-current affairs' programme. This has led to a kind of controversial arbitrariness. This last issue is of special interest and impact on freedom of speech and the media in Slovakia, as will be documented later in chapter 4.

Minor problems are claimed with regard to audiovisual legislation from the point of view of broadcasters, for example the fact that sanctions have a cumulative effect (incurring increasingly higher sanctions in the case of repeated breaches) and no time limitations. However, this is a universally valid approach, i.e. no local specifics are involved. There is also a problem with some definitions that are allegedly 'vague' (e.g. 'objective' and 'balanced' news-reporting).

Finally, the RVR has insufficient legal motivation to verify the real ownership relationships of broadcasters. This has led (especially in the past) to *de facto* illegal but tolerated diagonal and horizontal media cross-ownership at lower levels. It appears that this is not only a local problem.

It is noteworthy that most broadcasters have no serious complaints about broadcasting legislation or the RVR's work.

Almost all the rulings of the RVR (with the usual exception of 'warnings' and 'duty to broadcast an announcement' which can be later challenged at the Regional Court) are challenged at the Supreme Court. Even before the court has decided their merit, some RVR decisions were seen as 'absurd' by many politicians (including the Prime Minister), journalists and media experts. In fact, various higher courts (usually senates of the SC, and occasionally senates of the CC) upheld about 85% of RVR rulings on average in recent years (79% in 2010). It is difficult to say whether this is a lot, or an adequate number of confirmed/reversed interventions. This would require international comparison. National comparison shows that, from the point of view of the SC, the RVR actually fares very well. The 21% of RVR decisions overturned by the SC in 2010 is actually a much better result than the average 50% success/failure rate of other state regulatory bodies before the SC.

## **2.6 New technologies and regulation**

New technologies, the emergence of the Internet, and the consequent possibilities for freedom of expression and information that this opens up has affected the approach towards media policy in line with EU rules, adopted for Slovakia in 2000 and 2009 (Audiovisual Media Services Directive - AVMSD). Changes in the regulatory framework (i.e. broadcasting via the Internet) and the application thereof follow the general rules of this directive – perhaps more restrictively than necessary.

Technical convergence did not affect the institutional structures of media policy in Slovakia. Nor did it lead to the creation of unified communications regulators covering different types of media, although there was such discussion in the early 2000s.

The regulation of public and private radio broadcasting has remained unchanged. In other words, a radio service broadcast entirely via the Internet is not 'broadcasting' according to the Act, and therefore not under the powers of the RVR.

However, providers of television broadcasting exclusively through the Internet and providers of on-demand services are under the (softer) sanctioning powers of the

RVR. Moreover, they do not need a licence. For the purposes of the effective monitoring of these services, a mere notification is required.

In this context, it seems realistic to speak about the decline of PSM as we have understood them for decades. An increased amount of information available through the Internet or via the multitude of TV channels really makes PSM obligations seem obsolete, although this is not an argument against the public service broadcast as such.

In the case of digital switch-over, a significant change was noted in signal reception, from traditional TV terrestrial analogue broadcasting to digital satellite broadcasting (Czwitkovics, 2011). It should be mentioned that the state policy of digitalisation did not prefer any technological platform. The commercial campaigns of satellite transmission providers had the main impact on this technological change. Thus, an unexpected result of digitalisation was increased public access to more (non-terrestrial) channels. Ironically, the DVB-T broadcast brought only two new channels featuring various soap operas from two major private broadcasters. These two channels had already been broadcast through non-terrestrial transmission systems.

Yet the initial efforts of major TV broadcasters to retain as much as possible of private TVs' 'duopoly' after the digital switchover was ultimately in vain. Furthermore, digitalisation, the Internet, and changes in related media legislation have brought opportunities to establish new TV stations without the need to request a licence.



### 3. The structure of the media market<sup>12</sup>

The development of the structure of the Slovak media market can be characterised as a transition from the polarised pluralist (Mediterranean) model towards the liberal (North Atlantic) model, or in case of the public broadcasting service,<sup>13</sup> to the democratic corporatist model (the North/Central European model) (Dobek-Ostrowska and Glowacki, 2008).

Polarised pluralism (Hallin–Mancini, 2008: 323) was especially characteristic of Slovakia in the first decade after independence (1993 – 2002). This can be seen in ‘wild deregulation’ (Hallin–Mancini, 2008: 152), e.g. on the one hand the attempt to privatise the second broadcasting channel of the public TV broadcasting service (RVR Annual Report 1998: 30-31) or use public Slovak Radio (SRo) commercial frequencies for the needs of the radio CD International in the years 1990 – 1997 (Mistričková et al., 2000: 28-30), and on the other, the clientelism (Hallin–Mancini, 2008: 164) which strengthened the ties of the media and politics (e.g. establishment of a political party with personal links to the private nationwide TV broadcaster TV Markíza in the years 2001-2002) (Školkay, 2002: 209-214).

Transformation after 1989 coincided with the strengthening influence of the neo-liberal model throughout Western Europe. For the countries going through the process of democratisation it became the only ‘visible’ model (Jiráč–Trampota, 2008: 16).

Regarding structural regulation, media policy in Slovakia for the structural regulation of the media is largely created ad hoc, rather than according to a clear strategy (Kollár–Mrvová, 2003: 256). The basic framework of media policy in Slovakia is formed by international obligations (e.g. the Council of Europe and EU *acquis*), governmental manifestos and finally by *ad hoc* political initiatives. In spite of this ‘accidental’ makeup of Slovakian media policy, the practical implementation of it suggests that a few common features can be found. These contribute to the existence of a *de facto*, continual, socio-political media strategy. In essence, it is the establishment of, and support for a dual system of media in broadcasting<sup>14</sup> and the balancing of the strengthening of freedom and responsibility of the media with the protection of the consumer from content, especially minors. The main factor determining the structure of the media market is not legislation but rather the size or affluence of the market.

The main tools of media policy are primary and secondary legislation (drafts are principally derived by the MC). These legal tools are significantly supported by the praxis of the regulatory authorities (Kollár–Mrvová, 2003: 256) and by court rulings (especially by the judicature of the SC and the CC). By and large the media policy of the state is also influenced by public pressure, discreet lobbying of the major media companies and by the activities of some of the self-regulatory authorities, e.g. the Advertising Standards Council (ASC) and professional associations e.g. the Association of Independent Radio and Television Stations (AIRTS), APPP and SSJ.

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<sup>12</sup> This section was reviewed by Dr Ľuboš Kukliš, director of the Office of the RVR.

<sup>13</sup> In Slovakia, when creating a PSM system, the main models taken into consideration were the BBC and the Austrian-German model.

<sup>14</sup> The dual system for radio broadcasting in Slovakia started in 1990, when the first terrestrial radio started broadcasting. In 1992, the first twelve radio licences were granted. Concerning TV broadcasting, the dual system started in 1996 when the first multi-regional commercial terrestrial TV station started broadcasting, even though the first TV licences were granted in 1992 and the first nationwide commercial TV started its broadcasting in 1995 but only via satellite.

Our mini-survey suggests that professional associations' impact on the free and independent work of the media is mostly seen as very limited. The most positive relative impact on the free and independent work of the media in Slovakia was seen in the case of the Lotos-Club of Local TV Stations, then by the APPP and, to a lesser degree, by the AIRTS.

Other professional organisations influence the media policy in proportion to their aims (e.g. the Association of Internet Media, Creative Industry Forum) or only to a minimal extent via their coexistence with the self-regulatory mechanisms (e.g. PrC).

Systems of participation in state media policy and control over its implementation include tertiary sector organisations (e.g. Transparency International Slovakia, IVO – the Institute for Public Affairs, the Media Institute) who monitor and evaluate media policy and the way it is introduced and implemented.<sup>15</sup> However, at least some of these 'monitorings' and 'evaluations' have no scientific basis, but are rather based on simple impressions (see Bardiovský, 2011).

A media enterprise is, to a varying degree and depending on the type of media, channel through which the service is provided and the type of media content, often under the scrutiny of several regulatory authorities at the same time. Thus, alongside the MC, the RVR and the Telecommunication Office of the Slovak Republic (TOSR), state regulation is, to a lesser degree, also exercised by the Slovak Film Institute (the legal depository for audiovisual works and TV programs),<sup>16</sup> RTVS – the Radio and Television of Slovakia (the legal depository body for music works and radio programmes) and at least five other organisations (e.g. ASC).

Stakeholder lobbying has been observed during legislative procedures in Parliament. Nevertheless, the success rate of the industry in pushing through its own solutions is low. The success of parliamentary lobbying can be illustrated by three examples: STV (PSM) managed to push through the Act on Digital Broadcasting a provision about its own PSM digital multiplex in 2007 (however, the positive benefits of this lobbying, taken in regard to the financial condition of the PSM, are rather questionable).

During the establishment of the Press Act in 2008, the publishers of the periodical press failed in their requests concerning limitations to the right to reply; nevertheless, the Press Act was amended to reflect their wishes after the change of government in 2010 (amendment to the Act in 2011).

The private broadcasters were also successful in 2008, as a form of compensation for the newly enacted duty to pay contributions to the Audiovisual Fund, in pushing through Parliament, an amendment decreasing the amount of advertising and/or teleshopping for PSM.<sup>17</sup>

More common than lobbying in Parliament is the participation of stakeholders in legislative working groups (pre-legislative lobbying). Stakeholders participated in drafting the Act on Digital Broadcasting<sup>18</sup> and in secondary legislation enabling the

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<sup>15</sup> Since 2008, the project IVO Barometer has been in effect, wherein four times a year (since 2011 every half a year) a quality (rating) of democracy in Slovakia is evaluated in five key areas: democratic institutions and rule of law (Rechtsstaat); legislation, protection and maintenance of human and minority rights; independent media and PSM media; foreign policy from Euro-integration and transatlantic perspective. Since June 2011, Transparency International Slovakia has, in cooperation with the internet portal medialne.sk, started monitoring of the historic overview of media owners.

<sup>16</sup> Both based on the Audiovisual Act.

<sup>17</sup> Both limits calculated for each programming service will decrease till 1 January 2013 from 3% resp. 10% to 0.5% resp. 2.5%, Act on Broadcasting, Art. 36(1).

<sup>18</sup> See the Act on Digital Broadcasting, Art. 5(2).

transition to digital broadcasting, preparations for amendment of the Press Act,<sup>19</sup> reform of the PSM,<sup>20</sup> (including participation of private broadcasters) etc. In the case of digital switchover, this led to the result that the goals of digitalisation were not fulfilled. In short, there are no more channels available through digital terrestrial, they are not of higher quality, nor are there any new services on screen since the switchover.

There is a ‘mirroring effect’ in media legislation, due to the closely related languages and the common legislative background found during the shared history of the Slovak and the Czech Republics in the 20th century. Due to this effect, the Acts of both countries are often alike or ‘share’ some legal institutes. This in effect often poses obstacles to the local media environment, due to the unscrutinised transposition of institutions and solutions that, in a different legal environment and circumstances, might contribute to the deepening of existing crises or towards the creation of new problems. For example, PSM multiplex was introduced based on the Czech model exclusively due to lobbying by the STV (PSM) management<sup>21</sup> and resulted, not only in complicating the already troublesome financial situation of the PSM and its revival,<sup>22</sup> but also the position of the PSM within a media market that is less than half the size of that in the Czech Republic.<sup>23</sup>

The Slovak media are primarily regulated by traditional state regulation which has a strong influence on the semi-independent regulatory authorities. There is general agreement that general favouritism exists towards TV broadcasters across the political spectrum in Slovakia. There is also significant intervention by the courts of law, ruling on appeals against the regulators’ decisions. Media legislation is either very unstable (regarding broadcasting) or politically polarised (regarding the press) or widespread and unclear (regarding online media).

For example, the Act on Broadcasting and Retransmission which came into force on 4 October 2000 (the core of the broadcasting legislation) was amended 16 times, before 1 September 2011 (this represents the frequency of amendment, not the sum total of amendments, which was higher by far). In comparison, the Advertising Act which has been in force since 1 May 2001 (it is the core of published advertising

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<sup>19</sup> See Press release, MC, 5 October 2010, available at: [http://www.mksr.sk/aktuality/odborna-pracovna-skupina-pre-novelu-tlacoveho-zakona-sa-dnes-stretla-po-prvy-raz#w9TclrtJpc\\_jPUqqg2d2tg](http://www.mksr.sk/aktuality/odborna-pracovna-skupina-pre-novelu-tlacoveho-zakona-sa-dnes-stretla-po-prvy-raz#w9TclrtJpc_jPUqqg2d2tg) (date accessed 31 August 2011).

<sup>20</sup> The working group started its work on 20 October 2010. On 26 October 2010 the draft bill was completed and on 28 October 2010 the public consultation ended. See press releases of 20 October, 26 October and 28 October 2010, MC [online], available at: <http://www.mksr.sk/aktuality> (date accessed 31 August 2011).

<sup>21</sup> Representatives of the Slovak PSM management, who managed to push through this idea, were previously managers of the Czech PSM which at the same time was also preparing for digital switchover.

<sup>22</sup> According to the statement of the general director of the new joint PSM broadcaster (RTVS) from 14 March 2011, the cumulated losses of the television broadcaster (STV) for the years 2007 to 2010 were altogether 45 million euros. See ‘Telerozhlas sa bez pomoci štátu neudrží, tvrdí Zemková’ [TVRadio cannot be maintained without the assistance of the State, Zemková says], available at: <http://www.zive.sk/telerozhlas-sa-bez-pomoci-statu-neudrzi-tvrdi-zemkova/sc-4-a-292858/default.aspx> (date accessed 8 August 2011).

<sup>23</sup> According to the representative of the PSM broadcasters, from 29 April 2011 the PSM multiplex will not contain PSM radio services in digital terrestrial networks in 2011. He also added that ‘in the future it depends on the financial resources’. See Maxa, F.: ‘Slovenský rozhlas sa v DVB-T neobjaví. Aj napriek poloprázdnemu multiplexu’ [Slovak Radio will not appear in DVB-T. Despite of a half-empty multiplex], available at: <http://www.zive.sk/slovensky-rozhlas-sa-v-dvb-t-neobjavi-aj-napriek-poloprazdnemu-multiplexu/sc-4-a-293600/default.aspx> (date accessed 8 August 2011).

content regulation e.g. in the periodical press) was only amended eight times by 1 September 2011.

Political polarisation can be illustrated by the Press Act of 2008. Until this act, it was the Act on Periodical Press and Mass Media which had formed the basic legal regulation of the print media since 1967. The old Press Act was abolished only after more than fifteen draft proposals (1993-2006) of the Press Act were presented by different interested parties (government, publishers, journalists, and parliamentary initiatives). The new Press Act 2008 was not the result of the consensus of different interested parties. On the contrary, opposition to the draft brought publishers together. Most of the daily press published blank first pages as a sign of protest<sup>24</sup> with the largest professional organisation of journalists joining the protests after initial hesitation. Support was also garnered among the parliamentary opposition, part of which even conditioned the vote and support of the Lisbon Treaty by accepting changes to the draft Press Law (Czwitkovičs–Mistričková, 2009: 583). Thus, passing the Press Act against the desires of the media can be assessed in the intentions of polarised pluralism.

The regulatory dispersal and the resultant situation can best be illustrated by the trade of audiovisual content, where there are several simultaneous frameworks of regulation applicable, according to the distribution channels (service) of the same content. Further, the regulation can vary depending on whether the distribution is done in return for payment or not, and whether the service provided has the same character as the main or additional service (see e.g. AVMSD).

### 3.1 The financial tools

The financial tools of media policy can be classified as subsidies (specific funding) and specific media tax (taxation).

In the case of subsidies, the print media can gain subsidies from various sources, e.g. from the MC (for alternative periodical press) or from the Governmental Office (for national minorities). The state gives regular or occasional subsidies to a number of periodicals: mostly to intellectual or very specialised professional weeklies and monthlies. However, the state also supports the only Hungarian minority language daily Új Szó and weekly Vasárnap which is published by the major publishing house Petit Press. These two periodicals received 95,000 euros in 2011 (Glovičko and Petková, 2011).

Electronic media can apply for this kind of funding via the Audiovisual Fund as (co-) producers.<sup>25</sup>

In the case of the digital switch-over, state aid was provided only to the analogue broadcasters who were affected by parallel broadcasting during the transition, and to the end users who were on social aid.<sup>26</sup> This was done in 2011 from the budget of the Ministry of Transport, Post and Telecommunication.

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<sup>24</sup> See e.g. 'Protest: Denníky vybielili titulnú stranu', available at: [http://spravy.pravda.sk/protest-denniky-vybielili-titulnu-stranu-fjn-sk\\_domace.asp?c=A080326\\_200949\\_sk\\_domace\\_p12](http://spravy.pravda.sk/protest-denniky-vybielili-titulnu-stranu-fjn-sk_domace.asp?c=A080326_200949_sk_domace_p12) (date accessed 8 August, 2011).

<sup>25</sup> The notification of the specific programmes to the European Commission took place at the end of 2010; henceforth, the aid is exclusively *de minimis* (AF Annual Report, 2011: 16).

<sup>26</sup> The state aid was notified to the EC; Schemes N 671a/2009 and N 671b/2009.

As a specific tool, indirect subsidies can be considered an exception from public tenders,<sup>27</sup> specifically in the case of local media,<sup>28</sup> which can, on a local level, lead to discrimination, especially if there are competing media of the same kind on the market. Small, local, print media owners feel underestimated both in their public social roles and their complaints about the absence of financial help from the state authorities. There is a difference between independent local media and local media who are members of larger news chains (media houses). The former tend to include not only news agency style content, but also some more human and general interest stories. The print media who are members of chains seem to be exclusively focused on overall profit. The media owned by large media houses neither need nor expect any subsidies. However, independent media are more often intertwined with nationwide politics. This tendency is probably indirectly related to the prosperity which arises during election campaigns. In other words, local weeklies and bi-weeklies have their most profitable period during national, or to a lesser degree, regional pre-election campaigns. Thus, they must either remain neutral in their reporting or ideologically support a certain political party, in order to get advertising.

Media taxes can have an adverse effect on the entry of media companies into the market; beyond the general framework they present an additional tax burden only to selected media subjects or specific media content. For example, even though income tax is set at the same level for all media enterprises (19%) and VAT is 20%, VAT differs in respect of the specific kinds of print (VAT 10%).<sup>29</sup> The additional tax burden over this threshold is levied on private broadcasters (an additional 2% from the overall income from advertising and teleshopping without VAT),<sup>30</sup> and providers of retransmission (1% from total income for retransmission without VAT) as an obligatory annual payment to the Audiovisual Fund.<sup>31</sup> Furthermore, audiovisual production is burdened with various tax payments for its particular authors even before its broadcast.<sup>32</sup>

### 3.2 The authorisation of the media

The state controls entry to the media market through various authorisation procedures. Authorisation primarily includes the jurisdiction of the Slovak regulatory framework, which, for example, in the area of broadcasting, goes beyond the harmonisation of the EU, e.g. recital 15 of the AVMSD. Authorisation by itself cannot significantly influence the freedom and plurality of the media. Nevertheless, a system of authorisation can be seen as having a negative impact on the freedom of the media if

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<sup>27</sup> According to the Act of Public Procurement, Art. 1(2)(h): ‘this Act does not apply to consignment, that organiser of public tender gains, develops, produces or co-produces programming material dedicated for TV broadcasting or radio broadcasting and consignment referring to broadcasting time’.

<sup>28</sup> E.g. the city of Trenčín spent on local media in the year 2009 the amount of 272,735 euros (source: City closing account for 2009, program 4), regional TV Turiec (only owner city of Martin) has obtained for the production of programming for the city of Martin the amount of 139,431 euros for the year 2010 (source: City closing account for 2010), the town of Púchov received in 2010 the amount of 98,143 euros for advertisements, maintaining of local radio, services of local TV (Púchovská TV) and local newspaper (Púchovské noviny) (source: City closing account for 2010).

<sup>29</sup> According to the Act on VAT merchandise of these tariff and statistical nomenclature of the Common Customs Tariff: 4901, 4903 00 00 and 4904 00 00.

<sup>30</sup> PSM broadcaster have a set rate at 5%.

<sup>31</sup> Act on the Audiovisual Fund, Art. 24-31.

<sup>32</sup> According to the Act on the Arts Funds; over the income tax authors of scripts, film directors, and other authors pay (2% from income) to the appropriate art fund.

it is a sophisticated system of administrative requirements and obstacles which discourage media enterprises from entering the market.

The Slovak system of authorisation is unnecessarily bureaucratic (as regards for instance the authorisation of the on-demand services) and in some cases this goes against the freedom of the media. There is no automatic granting of the ‘combined’ licence, not even in the case of satellite broadcasting (this is at the discretion of the RVR), while time restriction of the analogue (‘combined’) licence means that in fact the media has, theoretically, no real value after the licence has expired. However, so far there has been no case in which the RVR did not prolong a licence if conditions were fulfilled.

On the other hand, as a positive development can be viewed the effort to remove some problems regarding the ‘combined’ licence by introducing the digital licence (without time constraints and with automatic granting after fulfilment of legal requirements). The content licence for digital broadcasting (‘digital licence’) was introduced in the year 2007 parallel to the existing licensing mechanism (‘combined licence’). As with registration, the applicant is entitled to the licence and has to apply within a defined period before commencing provision of services. If the RVR does not issue a decision in a given period, unlike when registration is in question, then the applicant does not gain the authorisation to provide services *ex lege*; however in this case s/he is entitled to file a law suit against the authorisation authority. The holder of the digital licence can furthermore, under the right to broadcast a terrestrial digital programme service, subsume other ways of disseminating the signal (including the Internet) and does not need further special business authorisation. The digital licence (unlike the analogue licence) is furthermore not bound with the obligation to broadcast, or duty to broadcast in any other authorised way. Since the licence is linked only to territory and not frequency or infrastructure (unlike the analogue frequency), it is granted without time limitation, and henceforth the media enterprise is not without economic value even when it is not broadcasting, unlike the time-limited analogue licence which, upon expiration loses all market value.<sup>33</sup>

The combined licence (analogue licence) – is the oldest form of authorisation for TV and radio broadcasting. At present the combined licence is granted by the RVR<sup>34</sup> predominantly to radio broadcasters although it can also be granted to TV broadcasters, but not for terrestrial broadcast. In other aspects of content provision it competes with the digital licence. There is no legal entitlement to gain an analogue (combined) licence (it is at the discretion of the RVR), and it is granted for a limited period (12 years for TV broadcasting and eight for radio) with the possibility of one prolongation and an obligation to broadcast continually in all authorised forms. If the frequency is part of the licence, this is granted within the tender. It is at the discretion of the RVR when and if a tender will be announced; this also applies to the frequencies that are coordinated and paid for by the broadcaster. Within the tender, the RVR also takes into consideration the adequacy of the participation in the company of Slovak subjects and their representation in the company.<sup>35</sup>

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<sup>33</sup> There were 41 valid television digital licences and 11 radio digital licences towards the end of 2010 (Annual Report RVR 2010), Appx. 7 and 8.

<sup>34</sup> This competence was vested in the Parliament until 2007. The Parliament was the only body that could grant nationwide broadcasting licences (on the recommendation of the RVR).

<sup>35</sup> According to Czwitkovics and Kollár (2008: 566) ‘the CME has bypassed this legal provision, so that the owners’ structure did not change directly in the company Markíza Slovakia, but in the company that owned part of it - Media Invest. The current legal interpretation does not require to ask for consent from the RVR e.g. when changing the ownership structure, if this is done on other than first level’.

### 3.3 Anti-concentration measures and ownership issues

The Slovakian regulatory framework includes measures against concentration. These involve measures by which the state controls the ownership or monitors the level of media pluralism (such as ownership pluralism) beyond the framework of the authorisation measures. Regarding the press, there are no specific measures. In the case of broadcasting, many of the measures are ineffective, since they are predominantly of a passive nature, i.e. their function is mainly preventive.

In most cases, various local and regional TV and radio stations, as well as print media, are owned by standard, limited liability companies. An atypical form of ownership is the local, print media publishing cooperative. Its main advantage is greater independence for editors but its disadvantages include a lack of managerial competence. More than half of the independent private regional and local print media are still under the ownership of journalists. This is the result of 'wild' privatisation in the early 1990s when journalists themselves privatised their outlets. The state media policy did not favour the continued publication of regional or city media outlets in the early 1990s. Initially, there was some indirect support for the development of local and regional media in the form of lowered taxation if the owner invested in the development of a medium. Presently, there is unfair competition from exclusively advertisement-based 'papers' that do not fulfil any additional social role, overestimate their circulation and have almost the same taxation level as local and regional newspapers with various social roles in the regions.

There was a problem of an overly liberal print media market in the regions around the turn of century. Local print media felt threatened by new media houses which were expanding into the regions and allegedly using unfair competition practices. The Antimonopoly Office (AMO) followed liberal policies.

The main problem for media enterprises seems to be the structural composition of the national economy. In other words, there are many local branches of national or international conglomerates but advertisement decisions are made in central offices in bigger cities or most often, in the capital city. This managerial approach creates a disadvantage for small independent media in other regions. The larger media houses have no problem in contacts and offers of special combined products for advertisers. For example, they can offer special supplements for villages/cities. The independent media owners or managers in the regions have to rely on personal contacts with local entrepreneurs. This, in effect, limits their watchdog role vis-à-vis the local business sector.

Furthermore, private local and regional media face competition directly (e.g. from free city newspapers, dumping prices for advertisements) or indirectly (e.g. from free of charge offices and infrastructure provided by municipalities) and subsidised alternative media outlets (e.g. municipality newspapers or TV stations). During global economic crises, some local print media either vanished or actively entered into partnership with municipalities. As a result, there is a *de facto* hybrid 'private-public-political' media sector in many, if not most, municipality newspapers and TV stations.

As far as the impact of the type of media ownership on the free and independent work of the journalists is concerned, our mini survey suggests that the most beneficial type of ownership is when there is a dominant foreign owner. The worst scenario seems to be when the media are owned by local municipalities. In general, it seems that the geographical distance of owners from the editorial offices increases the

independence of the media. In short, nationwide media by and large seem to have more freedom than local or regional media.

Regulation can be considered to be negative from the perspective of promoting media freedom and independence in some of the additional measures adopted. This is specifically the case in the ban on transfer of licence (which is redundant, especially concerning digital licences, which are not linked to the ownership/holding of infrastructure). Another negative effect is the power of the RVR (related to authorisation) to deny the entry of investors into the organisation of broadcasters,<sup>36</sup> since the discretionary powers of the RVR on the decision to allow this entry are unrestricted by any standards or rules (neglecting this obligation by the broadcaster has the effect of revoking the licence and a one year ban)<sup>37</sup> (RVR Annual Report, 2011: 30).

There is also some verbal disagreement between the AMO which would prefer a 'relevant advertising market' as a point of reference, while the AIRTS would prefer the whole market to be used as such. In addition, this market should not be segmented into regions but instead into media types or all 'old' media types together.

There are still limitations placed on the horizontal concentration of radio stations, with a 25% threshold. In contrast, there are very high-level limitations on horizontal concentration in the print sector and with the advent of digitalisation, very relaxed rules for horizontal concentration in television and radio broadcasting (it is possible to own a major TV station and 'sister' stations with monotype – e.g. soap opera – programming).

A system of anti-concentration measures is to be found in the media legislation on electronic communication services and in general competition law. The competition legislation in the area of electronic communications is in substance shared by all EU member states via the common regulatory framework (EU MS).

As far as the coexistence of general competition law (the regulator in this case is AMO) and media law (several regulators) is concerned, the AMO has priority with the exception of the passive measures (see footnotes) and the *ex-ante* regulation of the competition. The activity of the AMO in the media sector can be illustrated primarily by its activities regarding the press agencies: in the years 2004-2007, upon a complaint by the private press agency (SITA), the AMO questioned the financing of the state press agency (TASR), whose budget was made up, almost by half, of subsidies from the state budget. Consequently the AMO imposed several fines on the MC for breach of competition rules. The basis of its argument was that the state, by non-transparent means, had subsidised activities which could be commercially feasible (Czwitkovics-Kollár, 2008: 560). These fines, amounting to 1.4m SKK (46,471.50 euros),<sup>38</sup> were twice overruled by the appellate court<sup>39</sup> and in one case by the AMO itself.<sup>40</sup>

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<sup>36</sup> In 1<sup>st</sup> resp. 2<sup>nd</sup> year of the licence this concerns any part of the core property of the holder, after that only entering that exceeds 55% of the company core, Act on Broadcasting and Retransmission. Art. 54(1)(c), (e) and (f) and Act on Digital Broadcasting. Art. 31(2).

<sup>37</sup> For instance, in 2010 the RVR revoked from the Televízna spoločnosť BBSK, a.s., licence T/208 for broadcasting the TV programme service 'TV 13' for the reason of transferring shares of core property of the broadcaster or voting rights within a period of 24 months from gaining the decision of the Council on granting the licence, without previous consent of the RVR with this transition.

<sup>38</sup> Decisions of the AMO No. 2007/39/2/1/054 and AMO Council No. 2006/39/R/2/023 and No. 2007/39/R/2/012.

<sup>39</sup> Decisions of the SC No. 1 Sžhpu/1/2008 and No. 2 Sžhpu/3/2008.

<sup>40</sup> Decision of the AMO Council No. 2009/39/R/2/034.



Regarding other competencies of the AMO, it needs to be pointed out that its anti-concentration measures are given by the threshold of turnover in accordance with EU legislation. This competency is also exclusive to the AMO (in January 2006 it decided on the acquisition by means of which the CME group took over the private TV company Markíza (Czwikovics-Kollár, 2007: 583). On the other hand, the AMO did not decide upon the fusion of the PSM broadcasters as this was done by law.

*Ex-ante* regulation of competition is mainly in the competence of the TOSR in relation to electronic communication enterprises and providers of selected content services (multiplex). *Ex-ante* regulation can also be considered in the context of other content services (broadcasting) which are covered by the RVR (e.g. in the context of a licence tender). *Ex-ante* regulation of competition (with the exception of the concentration enquiries by the AMO) does not exist in relation to the press, press agencies or new media services. The RVR and TOSR have several groups of measures at their disposal for the maintenance of plurality.<sup>41</sup> However, through none of them can the plurality of sources be ensured, nor can distortion of competition, which has commenced by breach of some of the passive measures, be repaired.

Passive measures include mainly legal restraints concerning property (shares) or personal links (connections) of the owners of the media enterprises.<sup>42</sup> In short, these are restrictions of a structural character that should prevent vertical or horizontal concentration of content providers. The origin of some of these can be found in CoE recommendations and, in respect of independent producers, in the TWF Directive. The TWF does not include ownership regulation for independent producers, but it contains a definition of independent production and also, implicitly, a definition of an independent producer. Some of these local recommendations were reactions to developments on the media market<sup>43</sup> (RVR Annual Report, 2001: 44–48). Restrictions do not include potential, vertical concentration of the content providers with the owners of infrastructure or providers of electronic communication networks. This derives from the analogue setting of the system (i.e. the analogue broadcaster as holder of the frequency and often also of the telecommunications device, as provider of retransmission as the owner of infrastructure, conducting transmission and as provider of the content service). In the case of links in relation to property, in all cases the links under a specific threshold set are not deemed relevant. The threshold is a 25% share. One exception is the restriction concerning the property links of independent producers; in this case there is no threshold. Any share is considered a link. Concerning the practices of regulators, each one of them examines the links under its jurisdiction (TOSR – multiplex providers, RVR – broadcasters and MC – independent producers). The MC does not examine links concerning publishers of the

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<sup>41</sup> By passive measures we mean those regulatory instruments that are only applied by the regulator without its participation in their creation or the possibility of adapting them to the conditions and current state of competition.

<sup>42</sup> The restrictions between broadcasters (Act on Broadcasting and Retransmission, Art. 43, Act on Digital Broadcasting, Art. 51(1)(g)), between broadcaster and publisher of the nationwide periodical press (Act on Broadcasting and Retransmission, Art. 43, Press Act, Art. 11(4)(j)), between independent TV or film producer and broadcaster (Audiovisual Act, Art. 37(1)), between broadcaster and provider of terrestrial multiplex (Act on Digital Broadcasting, Art. 51(2) and (3)), between providers of multiplex (Act on Digital Broadcasting, Art. 52), and special measures restricting the owners of the broadcasting companies or companies providing multiplex (Act on Broadcasting and Retransmission, Art. 42(2) and (3), Act on Digital Broadcasting, Art. 52).

<sup>43</sup> According to the Annual Report RVR 2000 ‘the specificity of the media market was an impact of the merger of TV Markíza, Foundation Markíza, Národná obroda (nationwide daily newspaper), monthly Markíza, which was in 2000 enriched with radio Koliba’.

periodical press, but only monitors them, and the RVR examines property links in respect of the owners of broadcasters; links at lower levels are not examined.<sup>44</sup>

Passive measures that have an antitrust character are measures that relate to programme networks and multiplex networks.<sup>45</sup> Measures related to programme networks cannot be considered as effective. The RVR has twice been confronted with the existence of a programme network. In both cases the ‘network’, after reaching the legal threshold (50% of population), has overgrown into standard multi-regional broadcasting. In one case it was a project of local TV stations which ended by transforming into one new full format TV station JOJ; in the second case, regional radio stations transformed themselves into the single multi-regional radio station, Jemné melódie).

In the case of networks of multiplexes, the main reason for these measures is to eliminate the bypassing of obligations related to standard multiplexes, as well as the effectiveness of the governance of the frequencies, coordinated for digital broadcasting. The regulator, in this case, is exclusively the TOSR; nevertheless since the transition is ongoing the measures cannot be evaluated at this time.

In an effort to maintain plurality of the market, the RVR has additional, secondary measures, which are now established in law but have their origin in praxis. For example, the auction of a part of a company of a broadcaster together with its licence, by which the RVR’s decision was bypassed (RVR Annual Report, 2000: 32), resulted in the introduction of a rule banning the transfer of licences.<sup>46</sup>

### 3.4 Must-carry rules

The Slovakian legal framework includes must-carry rules. These are not only the must-carry rules derived from the Universal Service Directive, but also, adopting a wider definition, quota obligations e.g. concerning European production and other rules by which the state controls access of the public in respect of certain contents or services. One positive aspect which can be seen in relation to the freedom and independence of the media is the loosening of the must-carry rules in respect of retransmission. This is actually in line with long-term EC policy. However, further migration of services to countries with a more favourable regulatory environment (as in the case of providers of retransmission)<sup>47</sup> cannot be excluded (and is already

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<sup>44</sup> In applying the *secundum et intra legem* principle, the RVR is entitled to act only in regard to broadcasters and indirectly in regard to owners of the broadcasters. However it has no legal entitlement to act in regard to the owners of the owners of the broadcasters.

<sup>45</sup> Act on Broadcasting and Retransmission, Art. 3(j) and 42(4), Act on Digital Broadcasting, Art. 53.

<sup>46</sup> It is a principle of service exclusivity (restrictions preventing providing more services of a different kind) (Act on Broadcasting and Retransmission, Art. 42(1); Act on Digital Broadcasting, Art. 50); principle of licence exclusivity (restriction on providing multiple services of the same kind and of similar content) (Act on Broadcasting and Retransmission, Art. 45(1), Act on Digital Broadcasting, Art. 25), principle of territoriality of service (territorial restrictions of providing the service) (Act on Broadcasting and Retransmission, Art. 3(p) to (t) and Act on Digital Broadcasting, Art. 16(3)(d), Art. 17, Art. 24 and 31(3)(a)), principle of guarantee of competition (pro capacity restrictions of spectrum) (Art. 24 (3) to (5) Act on Digital Broadcasting), principle of personality of licence (legal restriction on transfer of licence) (Act on Broadcasting and Retransmission, Art. 50(2) and (3), Act on Digital Broadcasting, Art. 29 and 30(1)) and principle of legality of transfer (legal conditions excluding the transfer of entitlement) (Act on Digital Broadcasting, Art. 21).

<sup>47</sup> See e.g. ‘České stanice sa vracajú na naše obrazovky’ [Czech stations return to our TV screens], StratégieONLINE, 4 April 2011, available at: <http://strategie.hnonline.sk/sk/sedy/spravy/media/ceske-stanice-vracaju-na-nase-obrazovky-3.html> (date accessed 17 September 2011).

ongoing in the DTH).<sup>48</sup> In the case of must-carry rules in the digital terrestrial environment, their assessment would be premature, bearing in mind the ongoing transition to digital broadcasting. The same can be said of the ongoing migration of end users from terrestrial to other means of signal and content reception, that is, other platforms; it is however, unclear whether this is only a temporary trend due to the switch-off of analogue or if this will continue for a longer period<sup>49</sup> (RVR Annual Report, 2011: 33).

There is an underlying rationale which links all these points together since they all have in common that they all are must-carry rules which influence content regulation and, indirectly, the structure of the market.

### 3.5 Public service media

The organisation of the PSM and its financing deserves attention. Particular changes in the organisation of the media and the way they are financed are underway, and there is a tendency to drift from independent public corporations providing a public service toward centralised state institutions providing a public service.

After the accession of Slovakia into the EU in 2004 there was a system of two PSM (radio and TV). Local and regional TV stations, despite the fact that since 1992 they had gradually become a part of the system, were never considered as PSM.<sup>50</sup> The system of the two PSM was, to a considerable extent, financed by the special fee ('concession fee') linked to the ownership of a receiver (existing state aid). From the year 2007 this system went through considerable changes. In 2008 the system was changed for the first time. Concession fees linked to the ownership of a receiver were altered for payment for media services linked, in the case of households, to the electricity end (consumer) point, and in respect of employers, to the number of employees.<sup>51</sup> In the year 2009 another change was made by introducing PSM (financing) contracts with the state.<sup>52</sup> From the legal standpoint this was actually a state subsidy with specific conditions under another name.<sup>53</sup> It is important to note that notifications to the EC were not successful since it covers state aid.

Remodelling of the dual system continued in the years 2010–2011 with the fusion of both PSM broadcasters. In terms of PSM financing, this means that *de facto* a newly constituted system of contracts with the state was established. The recipient of the payments for the services of STV and SRo became one legal body.

The government announced a controversial plan to abolish fees paid by the general public and private companies for the use of these media (initially) from

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<sup>48</sup> See e.g. 'J&T predáva Skylink' [J&T sells Skylink], StratégieONLINE, 15 July 2011, available at: <http://strategie.hnonline.sk/sk/sedy/spravy/media/jt-predava-skylink.html> (date accessed 17 September 2011).

<sup>49</sup> According to the official information of the RVR, in comparison with the year 2009 in 2010 access to the services of retransmission via KDS, MMDS, MVDS, the Internet and other telecommunication networks increased by 2,088 households. This number does not include households that receive cross border-provided DTH services and these numbers also do not include the possibility (of primary or secondary) reception of a signal in households.

<sup>50</sup> On 31 December 2010 the municipality (towns, cities etc.) had a property share in at least 46 from the 74 local broadcasters, meaning still over 50%; RVR Annual report 2010, Bratislava, 2011, Appx. 5 and 8.

<sup>51</sup> Act No. 68/2008 Coll. on payments for public services provided by Slovak Television and Slovak Radio. There had been no notification to the EC on the changes in the system.

<sup>52</sup> Act No. 312/2009 Coll. on some measures concerning Slovak Television and Slovak Radio.

<sup>53</sup> The notification of the change in the system to the EC did not go through.

January 2012, and later from January 2013. It soon emerged that it will be difficult for the government to find sufficient financial resources in the state budget to cover this annual burden. In addition, the government has already passed new legislation merging public TV and radio from January 2011. Although there have been such attempts in the past, sometimes supported with analyses, there has been no recent in-depth study as to how this merger would help (or possibly harm) the public service media financially. Initial governmental estimates only suggested limited savings of about 1.65 million euros in 2011 (MC, 2010). Further legislative changes in public service media were expected.

A gradual drift from the democratic corporatist model to a modified model is also hinted at by the final phase of naturalisation of the PSM media. The final change lies again in the method of financing. The new bill, according to which the system of payments from contracts with the state will be substituted with only one guaranteed donation from the state budget in the amount of 0.142% GDP or a minimum of 90 million euros, was approved by the Parliament in October 2011. It was argued (Krajcer, 2011) that these policies have positive implications for the freedom and independence of PSM. First, there were the high costs of collecting fees. Second, the success rate of the collection of fees has shown a decline since 2009. Third, the percentage share for PSM based on the annual state budget was supposed to guarantee the financial stability of the PSM, thus decreasing its political dependence.

There are additional changes in financing concerning advertising and teleshopping. Between 2009 and 2012, the amount of advertising has been gradually decreasing. However, even after this decrease, the PSM company (two TV channels and a minimum of seven radio stations) can in total amount to 21% of advertising per day, together with 25% teleshopping. Sponsorship and product placement are unrestricted. All these changes entail clear implications that *pro futuro* the financial independence of the PSM may be at risk.

The selection and election of members of a new supervising body for the merged public service radio and television broadcaster (RTVS), the Council, has also not marked any visible deviation from the standard politicisation of this body. All new members of this Council are now presented as experts (in the media, law or economics), although they are also, and perhaps foremost, political nominees. Clearly, political nominees can hardly, in the final analysis, guarantee the free and independent work of the media. This was clearly recognised by some experts during the preparation of the new legislation. There were two controversial issues during expert negotiations on the draft of the new law on RTVS. First the election method of supervising board members (the Council) and their further roles, and secondly the status of RTVS. In other words, why is the new RTVS called a 'public' service when it is going to be almost exclusively financed directly from the state budget and, at the same time, all members of the Council are in fact political nominees.

It can be said that by particular legislative changes, the unfavourable gap between the PSM company and private broadcasters continues to deepen. The creation of a single PSM company with guaranteed income (which, among other advantages, is the only provider on the market that encompasses at the same time and in same subject, nationwide radio and TV broadcasting) creates an intrusion on the radio, TV and advertising (marketing) market. This is also due to the possibility of effectively combining the radio and TV programme service as well as advertising (commercial communication). In this way the PSM gain advantage in comparison with isolated radio and TV broadcasters. In the case of private radio broadcasters (regarding their legal share of the media-mix) this situation can, in effect, mean, to

many of them, liquidation on the market. No radio, other than PSM, has the possibility to offer its advertising space in a 'bundle' with television advertising. The possibility of mutual 'cross promotion' of radio and TV services of a joint PSM, which has already started in the broadcasting of RTVS (PSM) in 2011, and, to this end, is not calculated in to the 'advertising time', creates a further significant advantage for the RTVS in comparison with the private broadcasters. Thus, it can be argued that politicians are using, in a last desperate effort, all accessible means to revitalise PSM in Slovakia. However, on the one hand, from the perspective of guaranteeing PSM freedom and independence, it seems that state-dependent financing is unlikely to result in independent media. On the other hand, the more favourable position of the state financed PSM usually results in over-dominance of the PSM and suppression of free and independent functioning of the private media.

### **3.6 Conclusion**

The MC with the technical help of the RVR formulates - following more liberal directives of the EC – a relatively restrictive policy for free and independent broadcast and online media with respect to the structure of the market. The RVR puts this policy into a relatively even more conservative and bureaucratic implementation framework. The role of political, corporate, economic or other interests in policy formulation and implementation is relatively limited, when much depends on the government in power. More successful and important for policy formulation seems to be behind-the-scenes lobbying, including lobbying in the Parliament. Some partial legislative changes were also the result of initiatives of individual or groups of MPs.

The impact of fundamental structural and financial transformation of the PSM on its free and independent work is yet to be seen, but is more likely to be negative.

#### 4. Composition and diversification of media content

There is a strong consensus in liberal democratic theory that issues of composition and diversification of media content are important for media freedom and independence (Balčytienė, 2009), although more recently these issues have become related to dangers coming from the market pressures (such as survival on the market or tabloidisation) rather than the need to protect plurality of political opinions *per se* (which are by and large saturated through multiple on-line sources and multiple TV and radio channels).

Slovakia is perhaps atypical in the general lack of any clear and consistent ideological orientation shown among most of the daily press throughout the last twenty years. Yet there is obviously some ideological orientation in some media. In a study by Ondrášik and Škop (2011) questionnaires were sent to 45 leading media professionals in 2008 (survey feedback only 51%). Of those who replied 52% admitted that their newspapers or TV stations had an ideological editorial line, mostly of a right-liberal persuasion (i.e. a quarter of all media surveyed). However, it should be stressed here that the editors and journalists did not claim support for, or opposition to, a particular political party but rather for or against certain ideology. It is also not uncommon that journalists in liberal democracies are liberally orientated. The more right-wing orientation of Slovak journalists - liberals - can be explained by the historical transition from communism which, for almost two decades offered a negative image of leftist ideology.

It is also useful to mention here the qualitative evaluation of composition and diversification in media content in the case of arguably the most important programmes – the main television news programmes of the two principal television stations in Slovakia, the PSM Slovak Television (STV) and the private television channel Markíza. In other words, we will show the results of contemporary media policy in this area on the level of composition and diversification of one the most important liberal democratic assumptions in media work – the fair and unbiased provision of information. In a study by Kravčák (2010) it was found that in general, the reporting of the Markíza over three months in 2008 was less objective than the reporting of the public broadcaster, STV. STV had 19% non-objective news while Markíza had 28% of such new items. The lack of objectivity included all possible deviations from the ideal type of professional journalism. Interestingly, in the subcategory of ‘balanced news items’ (i.e. giving equal space to all respondents) STV fared worse with 82%, while Markíza fared better with 90%.

There were four times more news items of socially irrelevant content – especially of the ‘infotainment’ type – on Markíza, with this type of news item constituting 27% of its whole programme. Surprisingly, however, even on STV the figure was still 16%. Interestingly, only 3% of both news broadcasts were found to be incomprehensible.

It is difficult to judge whether these results represent a more or less standard situation and are thus similar to other major networks in neighbouring countries, or whether these results are deviations from the ‘standard’ situation. By standard situation we mean here the better results achieved in the case of PSM and a reasonable level of deviation from ethical and professional ideals in both cases.

The general conditions influencing the composition and diversification of media content in Slovakia include the small size of the country and the few really significant large-scale advertisers. Obviously, advertisers do not like criticism of their companies or products. This trend has been more evident in recent years, even before

the 2008-2009 crisis. Nevertheless, the three most important media houses – Petit Press, Ringier Axel Springer and Spoločnosť Plus 7 dní – are still able to keep their editorial independence vis-à-vis major advertisers. Yet all medium-size and small-size media houses and publishers are to an extent forced to take into account the wishes and interests of smaller advertisers.

In the case of local TV stations, the minority language law demands that broadcasts in minority languages must be simultaneously translated (either in subtitles or via dubbing) into the official state language (in addition to the minority language). This rule effectively prohibits live debates on various political and social issues in minority languages. In practice, though, this is the case only for minority broadcasts by private or semi-private TV stations in the Hungarian language. Similarly, the publishers of the Slovak press must translate adverts into the official language. However, this rule does not apply in the case of solely English language periodicals (e.g. *The Slovak Spectator*) or exclusively ethnic language publications (e.g. daily *Új Szó*).

The major media policy rules follow EU directives when the major broadcasting law was passed before Slovakia joined the EU but it was in line with the EU *acquis*. Since then, no fundamentally significant new media regulation has been adopted apart from the new Press Law in 2008, and in 2002 self-regulation of the press. In the press sector, countries with the democratic corporatist model prefer relatively strong formalised systems of print self-regulation (Hallin–Mancini, 2008: 200). The PrC was founded in Slovakia after the agreement of the APPP and the SSJ. By November 2011, the PrC had, in total, registered 142 complaints and issued more than 110 rulings. This number of complaints received and rulings issued, in comparison to the other self-regulatory mechanisms (e.g. the ASC, also established by industry agreement in the year 1995),<sup>54</sup> suggests a lower impact of the PrC on the self-regulation of the media.

#### **4.1 Positive measures encouraging the diversification of media content**

There are four different measures encouraging the diversification of media content in Slovakia. First, there is the mechanism which supports PSM and at the same time gives the state some influence on the educational aspects of PSM – the contracts with the State. Second, there is the Audio-visual Fund which supports primarily the private film and broadcast sector. Third, there is a special Piano Project which aims to return profitability to the online news world. Finally, there are various domestic and international journalistic competitions.

##### **4.1.1 Contracts with the state**

The major initiative of the state authorities to diversify media content is related to Contracts with the State and public service media since 2008.<sup>55</sup> This conception of annual financial contracts directs state media-content policies in PSM media towards certain broadly defined goals over a five year period (2010-2014) which are then narrowed down and specified by the PSM as well as in annual supplements to these

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<sup>54</sup> The Advertising Council's commission of arbiters has ruled in approximately 380 cases in the period 2002–2008; available at: <http://www.rpr.sk/sk/nalezky> (date accessed 8 August 2011).

<sup>55</sup> See <http://www.culture.gov.sk/media-audiovizia/zmluvy-medzi-statom-a-verejnopravnymi-vysielatelmi-o-obsahoch-cieloch-a-zabezpeceni-sluzieb-verejnosti-v-oblasti-rozhlasoveho-a-televizneho-vysielania> (date accessed 11 November 2011).

contracts (between the MC and the PSM). Thus, there is a reasonable possibility of influencing general media content although the final content is decided and produced by the PSM themselves. It should be noted here that the PSM are not forced to sign such contracts. At the same time, the money provided cannot be used for news, current affairs or investigative programmes. Thus, the general idea is to encourage in the medium term the diversification of cultural, educational and youth programmes. There is also a longer term aim – to produce ‘*new original programmes in the public interest which shall contribute to an audio-visual heritage.*’ The allocated amount is 10 million euros annually.

#### **4.1.2 The Audio-visual Fund**

Another state initiative to diversify media content has to do with the establishment of the Audio-visual Fund in 2010.<sup>56</sup> The Fund replaced the former grant system of the MC. The Fund aims at the development of the Slovak audio-visual industry and its infrastructure. The Fund is financed by a combination of public finance (state budget subsidies) and contributions by public or private subjects using audio-visual works. As of 14 November 2011, the Fund had received over 1,000 applications for grants and subsidies. The Fund supported less than half of these and distributed financial help of over 6.2 million euros.

#### **4.1.3 The Piano Project**

There is a special or potentially controversial case indirectly related to diversification of media content. Although the emergence of the Internet and the uptake of online media services initially diversified media content, this undoubtedly contributed to lower profits for online providers – due to free of charge sources. Therefore, some Slovak media owners developed or adopted an original approach on how to make profit from online media. The project is called Piano and includes a common financial platform for about ten web portals, including online versions of print media. It has brought mixed results during the first month – three web portals observed a higher number of unique visitors, while four portals noticed a lower number. In any case, at least some profit was generated in the first month. Perhaps more importantly from the point of view of quality of public discourse, there was general satisfaction with the improvement in the quality of readers’ comments (Čobejová, 2011, Trend, 23 June 2011, p. 44) and half-a-year’s experience with Piano did not discourage most pioneers from the new system (Hetmerová, 2011). Although some critics can argue that this approach leads, in the short term, to a narrowing of the diversity of information, others can argue that this approach avoids the cultural trap of capitalism, i.e. it motivates online media to produce more and better media content – at least in the longer term.

#### **4.1.4 Journalistic competitions**

There are various journalistic contests which aim at diversity of media content. The most famous is the Journalistic Prize which has been organised for the last eight years by Open Society in Bratislava.<sup>57</sup> This contest is open to all types of media in 13

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<sup>56</sup> See <http://www.avf.sk/english.aspx> (date accessed 23 November 2011).

<sup>57</sup> See [http://www.osf.sk/programove\\_oblasti/media\\_a\\_komunikacia/novinarska\\_cena/](http://www.osf.sk/programove_oblasti/media_a_komunikacia/novinarska_cena/) (date accessed 23 November 2011).



subcategories. There is also another call for a national competition for municipal and regional print media with the aim of fostering more diverse and professional reporting.<sup>58</sup>

There are also competitions supported by private companies or state institutions. For example, the SSJ and Allianz-Slovenská Poist'ovňa insurance company organise a competition for journalists in four categories (plus a special category) and in four types of media. The Slovak Office of Standards, Measures and Testing has also, for the second year, organised a competition for journalists writing about quality issues.<sup>59</sup>

At the level of the EU there is the Prize of the EU for journalists, focused on journalists in print and online media. The content should include issues related to discrimination and diversity in the EU.<sup>60</sup> A similar project financed by the EU is co-organised by the International Organisation for Migration and a local NGO. This is in fact an international competition called Migrants in the Spotlight and is open to university students who are expected to produce media product on the topic of immigration.<sup>61</sup>

## **4.2 Competing interests and legal restraints on content diversification**

There are perhaps too many competing interests and legal restraints on content diversification. Therefore, what follows is a very narrow selection of some interesting and most importantly, relatively recent cases of conflicting issues.

### **4.2.1 Classified information, intelligence services and public interest**

Inevitably, the watch-dog role of journalists sometimes collides with the interests of the state. For example, the National Security Authority punished the weekly Žurnál [Journal] for publishing sensitive secret information in 2007. This secret information was allegedly found by an anonymous source and given to Žurnál. The National Security Authority gave the harshest possible financial penalty to the editor and journalist of the weekly (500 euros each). This penalty was cancelled by the SC in the case of the journalist in 2011. The weekly argued that the decision to publish this secret information was based on the concept of 'public interest' and was thus in line with the Code of Ethics. The editor argued that public interest was above the law on state secrets which, however, states specific rules on how to proceed in the event of coming across classified information.

It is true that the Code of Ethics - valid at that time - gave absolute preferential treatment to the 'responsibility of journalists towards the public'. However, at the same time, the Code of Ethics stated that a journalist had to submit him/herself to such limits, as defined by law for the exclusive purpose of guaranteeing and protecting the rights and freedoms of others and to respect just demands of moral, public security and general well-being. In addition, a journalist was obliged to show

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<sup>58</sup> See <http://www.nocka.sk/uploads/85/7b/857b8056c0268c52ecd36031c23abae/statut-miestne-noviny-2011.pdf> (date accessed 23 November 2011).

<sup>59</sup> See <http://www.unms.sk/?sutaz-ocenenie-za-publicisticky-prinos-v-oblasti-kvality> (date accessed 23 November 2011).

<sup>60</sup> See [http://ec.europa.eu/justice/fdad/cms/stopdiscrimination/news\\_events/news034.html?langid=sk](http://ec.europa.eu/justice/fdad/cms/stopdiscrimination/news_events/news034.html?langid=sk) (date accessed 23 November 2011).

<sup>61</sup> See <http://medialne.etrend.sk/tlac-monitoring/buduci-novinari-sa-mozu-zapojit-do-sutaze-na-temu-migracie-a-integracie.html> (date accessed 23 November 2011).

adequate honour to the constitutional order of the state, its democratic institutions and to respect valid law.

Bearing in mind the inevitable conflict between the aforementioned ethical and legal rules, it is clear that the key issue was not whether a general public interest existed which was above the law. The key issue was where the borderline was between the public interest and the right to know. This means that the key question was where the red line existed which a journalist could cross by claiming the right to break the law in the pursuit of greater general public interest. From the point of view of the public authorities, the question was where the right of the state ends for respect for law. Some of these issues were dealt with in *Stoll v. Switzerland*, *Rádio Twist v. Slovakia*, *Fressoz and Roire v. France*. Previously, in the mid-1990s, the Slovak media published some sensitive information, but this was at a time when legal regulation was missing in this area and there were clear threats to the survival of liberal democracy in Slovakia (Kotian, 2011a).

Similarly, much debated and much politicised was the issue of the wiretapping of selected journalists from the daily *Pravda* and the head of private news TV (who was not wiretapped as head of TV but as head of his private business company) and phone conversations by Military Defence Intelligence. This case became controversial in November 2011. There have been previous cases where journalists were tapped in Slovakia.<sup>62</sup> However, this time some argued (including the Prime Minister) that journalists are a special category of profession which under no conditions can be subject to secret intelligence supervision, even when all legal conditions for this operation are fulfilled. Curiously, the editors of almost all the most important daily newspapers (except the Hungarian-language daily and the sports daily) issued a joint statement in which they supported the same position.<sup>63</sup> The secret recording of some journalists' telephone conversations under any conditions was also denounced by the marginal Slovak Association of Journalists (SAN)<sup>64</sup> and by the largest journalistic organisation – the SSJ<sup>65</sup> as well as by the APPP.<sup>66</sup> Only the Slovak Section of the European Association of Journalists (SS AEJ) accepted that the profession of journalism is not above the law.<sup>67</sup>

Obviously, this argument (defence of the alleged absolute right of journalists not to be wiretapped) was false both from legal, constitutional and ethical points of view. First, although journalists have a special position in liberal democratic political systems, they are not above the law. Second, if the law is obeyed, it is difficult to argue that something illegal happened (Procházka, 2011 or Palko, 2011). This is not to say that all legal conditions were fulfilled – this remains to be proven.

Another line of argumentation was related to the close relationships between some journalists and some politicians. Interestingly, only the SS AEJ strongly condemned this approach. It should be added that there were strong signals and some evidence presented that, on the one hand, some of the media (the daily *Pravda*) had

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<sup>62</sup> See <http://www.sme.sk/c/6152084/smer-nechal-sledovat-tu-istu-novinarku-ako-galko.html> (date accessed 24 November 2011).

<sup>63</sup> See <http://medialne.etrend.sk/tlac-spravy/sefovia-slovenskych-dennikov-dnes-spolocne-odsudili-odpocuvanie.html> (date accessed 23 November 2011).

<sup>64</sup> See <http://www.novinarisan.sk/index.php?page=stanoviska&subpage=2011> (date accessed 24 November 2011).

<sup>65</sup> <http://www.mediahit.sk/?id=111&page=4> (date accessed 24 November 2011).

<sup>66</sup> See <http://tvnoviny.sk/sekcia/spravy/domace/odpocuvanie-novinarov-je-nepripustne.html> (date accessed 24 November 2011).

<sup>67</sup> See 'Vyhlásenie Slovenskej sekcie Asociácie európskych novinárov' [Statement of the SS AEJ], 26 November 2011, <http://www.mediahit.sk/?id=111&page=1> (date accessed 28 November 2011).

been abused, or attempts had been made to abuse them, as part of the political struggle.

More specifically, the former Minister of Interior and at that time an MP, R. Kaliňák, supplied a journalist from the daily Pravda with some information from his unofficial sources, and the same social democratic MP put strong verbal pressure on a journalist to influence the editorial output of this daily paper in his favour or rather in disfavour of his political enemy (e.g. Glovičko, 2011b).

In the case of abuse of the press this was probably only at the level of threats and thus did not materialise. Yet evidence was presented that a journalist from the daily Pravda had too close contacts with an MP for a social democratic party and at the same time a former Minister of Interior. Perhaps more importantly, the journalist even served as internal informant about editors of this daily for this MP (Füle, 2011, Kotian, 2011b).

There were some claims about possible corruption with the involvement of the top manager of a private TV news station and unusual communication methods, and contacts among heads of major private TV, private news TV and PSM were noticed (Füle, 2011).

The major daily press paid relatively little attention to these latter threats and attempts in the coverage of this multidimensional case (Sliacky, 2011, Kostolný 2011) and also in the joint statement of their editors-in-chief. No mention on these issues was found in statements of the SSJ, SAN or APPP (Kotian, 2011b).

Thus, the journalist and publishers are by a large concerned only with the wiretapping of some journalists, regardless of whether or not this was done according to the law, and regardless of whether or not this was justified by real suspicions, rather than with the unethical behaviour of a journalist, their too-close relationship with a politician, or the possibility of too-close or non-transparent relationships among top managers of major broadcasters, including the PSM.<sup>68</sup> Almost no one was interested in the issue of illegal publishing of classified state documents and how serious and documented the suspicions on the part of state authorities were which led them to wiretap journalists with the aim of identifying the source of the leaks. This seems to be a too one-sided professional-ethical approach to guaranteeing plurality of content (Wienk, 2011b).

This case also nicely documents the emotional, chaotic and rapid media debates in Slovakia, as well as the poor intellectual/legal/ethical abilities of representatives of major journalistic organisations.

#### **4.2.2 Controversies about the Press Law and the new Code of Ethics of the Journalist**

The Press Act passed in 2008 and amended in 2011 does not limit freedom of expression, despite many protests against it in 2008, especially among publishers. However, there were some details which caused some concern among publishers. For example, the Press Act did not allow the use of paraphrases in the case of 'reply'. In other words, the reply could not be changed or altered. Also, it did not deal with the issue of authorisation of sources of information and situations where the relevant person did not answer questions in time. In other words, if a person discussed in the report did not cooperate, it made the position of a journalist more difficult in the

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<sup>68</sup> The Director General of the RTVS did not deny this meeting or the events described in leaked classified documents, email from spokesperson of the RTVS, R. Šúmeghy, 30 November 2011, sumeghy@rozhlas.sk.

court. Further, it left it doubtful who would be responsible in cases where the 'protected' source was actually lying.

Protection of sources according to the new press law is a new right which was not in the previous press law. However, it was included in the press law which was valid until early 1990 and it was omitted by bureaucratic error, but was included in the Code of Ethics in 1990 in the following sentence: *'The journalist is obliged to keep his information sources secret until he is exempted from this duty by the informant or by the court.'* The current Code of Ethics of the Journalist also includes protection of sources in similar wording: *'A journalist will keep promises of protection of a confidential source until he is exempted from this duty by the informant or by the court.'* It seems that this novel wording is less morally and legally binding than the previous wording.

When there is a natural or legal person administering or as an owner of a website, that natural or legal person can, in principle, be forced to reveal his or her information sources because the Press Act and the Act on Broadcasting only guarantee this right to publishers, wire agencies and broadcasters (this duty is also extended to their employees). Thus, all other websites, if they are not related to publishers or a wire agency or for that matter to a broadcasting company (TV, radio) are beyond the scope of this law. In addition, all the above mentioned subjects must reveal the identity of a source if this is according to the Penal Act.

If the website is similar to a newspaper but on the Internet (having a journalistic outlook and content) general legal rules should be applied. The Press Act or the Act on Broadcasting do not deal with these cases. If this is just an Internet portal or a website where people can post messages (opinions, information, experiences), then this is not seen as journalism so there is no legal protection (there is perhaps some protection under the Code of Ethics, but the courts will not take this kind of protection into consideration). Therefore, there are editors for online publishing, and they check weblogs and web discussions, from time to time deleting improper messages or blog contributions. This is according to their internal regulations, but in any case, they would be held responsible should they be hesitant to reveal the identity of the author before the court (see Glovičko, 2011c).

#### 4.2.3 Libel and defamation<sup>69</sup>

The threat of libel and defamation suits is really one of the most controversial issues in carrying out the journalistic profession in Slovakia. Firstly, **there are various ways to deal with cases of defamation and libel, i.e. a range of possible legal approaches and a range of possible sanctions.** Defamation and libel is included in the Civil Code and the Criminal Code (both codes can be used individually or simultaneously). In a more preventive and soft form, they can be dealt with according to the Press and News Agency Act, or the Law on Broadcasting and Retransmission (Article 19, 21), and/or in a very soft and extra-legal way, through the PrC.

Secondly, there is **problematic implementation of the rights to protection of personal honour on the one hand, and the rights to freedom of speech and the press on the other, by the Slovak courts.** Wilfling and Kováčeková (2011: 39) pointed out that among the key problematic features of the libel and defamation judicature in Slovakia is the fact that in contrast to other European countries which

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<sup>69</sup> This section was reviewed by Dr Lucia Mokrá from the Faculty of Social and Economic Sciences, Comenius University, Bratislava.

give lower protection to public figures, including lower, if indeed any, financial compensation for non-pecuniary damages, **Slovak courts in libel and defamation cases may award public figures high levels of reimbursement for non-pecuniary damages**. The arguments of the Slovak courts are that illegal intervention into the personal rights of public figures is exposed to a larger number of people in the case of defamation and libel in the media. Therefore, the damage to reputation in the case of public representatives is (allegedly) more significant.

Be that as it may, it is clear that the Slovak courts **also usually approve a higher level of reimbursements for non-pecuniary damages to public representatives in comparative cases which would actually justify an ethically opposite approach (i.e. taking all issues in account, the opposite should be the case)**. Public representatives usually receive financial compensation several times higher than ordinary citizens. Furthermore, in general cases based on protection of personality (not necessarily related to media intervention or libel/defamation in general, courts do not take into consideration that the non-public representatives (figures) actually suffered higher emotional pain than public figures (e.g. in cases of brutal homicide of a son or a daughter).

The courts are also not limited by the law in cases related to reimbursement of non-pecuniary damages vis-à-vis the protection of personality. In short, nowhere is the maximum level of non-pecuniary reimbursement defined. Therefore, **these reimbursements for non-pecuniary damages can fluctuate rather randomly**.

To conclude, the jurisprudence of the Slovak courts is fuzzy, there are often no coherent approaches to similar or identical cases, and thus it tends to inhibit free speech rather than the opposite.

#### **4.2.4 Examples of controversial decisions of the RVR**

In contrast to the SC or the CC, **the RVR does not usually clearly prioritise the freedom of expression and freedom of the press**. It will be documented here that the Slovak version of objectivity transcends the directives of the EU as well as that the decision-making of the RVR in this area violates the ECtHR (and the CC) standards.

**The first example of a bizarre interpretation of impartiality in broadcasting and at the same time of arbitrariness in the categorisation of various programmes** can be found in the decision of the RVR from May 2010. In this decision, the RVR issued a ‘warning’. This ‘warning’ represented a low-level legal sanction for alleged impartiality in broadcasting. This impartiality was supposed to have been the result of the ‘lack of presence of alternative opinions’ in the late night discussion programme *Lampa* (Lamp) on the commercial TV channel *Joj Plus*, broadcast in November 2009. There were no clear reasons and justification given for issuing the sanction for violating impartiality, only a vague statement on ‘breaking of impartiality and objectivity’. This program was devoted to the 20th anniversary of the Velvet (anti-communist) Revolution in Czechoslovakia. Only two guests were present, both having been affiliated with those events, and later active in politics or the media. The programme is self-defined as an ‘informal, open-ended discussion programme’. However, the RVR decided that this was in fact a political current affairs programme. This change of categorisation of the programme enabled the RVR to issue its sanction. Certainly, if one takes the definition of politics very broadly, it could be called a political current affairs programme. However, in this particular case,

this programme could certainly not be seen as a political programme in the sense of covering current political affairs.

**The second example of a bizarre interpretation of plurality/impartiality is related to the public service radio programme.** The RVR decided in November 2007 that the public Slovak Radio broke the law with respect to objectivity and impartiality of news and current affairs (discussion) programmes. Therefore, the RVR issued an official legal punishment. Slovak Radio was supposed to have broken the law when it broadcast a discussion with two guests, an MP from the opposition and one from an NGO. Slovak Radio had also invited the minister who was to be discussed in the programme. However, the minister had declined this offer. As an alternative, Slovak Radio invited the spokesperson of the main governing party which had also nominated the minister in question. This offer was also rejected. As a result, Slovak Radio followed its own internal procedures, saying that in such a case it is possible to broadcast even without an opponent present. The journalist leading the discussion tried to maintain balance by criticising the opposition MP's position. Criticism of the previous government was still voiced by the NGO representative. Nevertheless, the RVR decided that impartiality had not been maintained. This decision was confirmed both by the Regional Court and the SC (2Sžo 202/2008). However, the CC cancelled this ruling, both on formal and substantial grounds (IV. ÚS 245/09-42).

The CC accepted the arguments of Slovak Radio that, firstly, the RVR did not follow formal procedural rules, and, secondly, that the SC as well as the Regional Court did not sufficiently deal with the issue of real efforts and achieved results guaranteeing objectivity and impartiality. The CC called this ruling of the Regional Court (which was accepted by the SC) 'vague and fuzzy' (see also Feřková, 2010a).

Nevertheless, the SC in its decision from October 2010 (2Sžo 73/2010) again re-affirmed its previous decision, giving more room to explanation of its decision and paying more attention to keeping to formal criteria in issuing its decision.

However, at almost the same time, in October 2010, another Senate of the SC issued a verdict in which, in the case of an identical programme, it argued differently with respect to the possibility of guaranteeing objectivity in this type of programme (6Sžo/527/2009).

Thirdly, the SC also overturned the decision of the RVR for alleged lack of objectivity in the weekly expert discussion programme on Slovak Radio *Z prvej ruky*, (At first hand) in which criticism was voiced of the previous Fico government in October 2008. The RVR issued a warning in May 2009. In the debate the commentators had also discussed the Slovak nationalist leader Ján Slota and Slovak-Hungarian tensions. The RVR thus, in the view of the majority of members, decided that the programme did not guarantee objectivity and impartiality. In the view of the RVR, the programme did not give space to the politicians being criticised or alternative opinions. Neither did the anchor of the programme seem, for the RVR, to be up to his task. The SC decided that it had not been explicitly identified what wrong had actually occurred and thus what specifically was seen as imbalance in the programme. The SC believed that the anchor had done nothing wrong (3 Sžo 200/2010).

#### 4.2.5 The rulings and findings of the constitutional court<sup>70</sup>

As we have mentioned, the CC plays a special positive role in supporting freedom of speech and the press in Slovakia. This can be seen in its rulings which protect freedom of speech and the press.

First, the CC in its Finding IV. ÚS 107/2010 **explicitly and unquestionably gave priority to freedom of expression in some cases.** More importantly, this priority of freedom of expression should be given, argued the CC, **even when a certain performance can have certain deficiencies from the point of view of the traditional legal protection of personality.** This is in line with previous argumentation used by the SC (see Ruling of the SC 5 Cdo 55/2008 from 25 February 2009). In other words (Macejková, 2011b: 18) *'The CC of the Slovak Republic respects also certain specifics of the standard periodical print media for mass public (in contrast to professional publications) which in certain cases, especially when taking into account the scope of individual contributions and readers' interest, must accept certain simplifications... What matters is always the overall meaning of information which should correspond with the truth.'* Moreover, the chairperson of the CC argued, *'not every publication of an untrue fact may by definition mean illegal intervention into personal rights. An illegal intervention into personal rights can be seen in such cases only under two conditions: 1) where there exists a direct correlation between intervention and breaking into the personal sphere and 2) where this intervention in a concrete case overstepped a certain qualitative level in such a manner that it would be impossible to tolerate in a democratic society'*.

Second, in the opinion of the CC (Finding of the CC I. ÚS 155/07 from 3 December 2008), possible legal (co-)responsibility of a person providing information to the media can be seen only, if: a) the media make this information public, b) the media learned about this information in an official way from authorities, and c) information contravened the rights of other persons. The CC argued that the above-mentioned criteria cannot be used if the information provided is commented on or supplemented, including its interpretation in a misleading way and context. Thus, this **decision protects sources in cases where the media interpret their words in the wrong context.** This case also shows that due to different legal opinions of lower and higher courts, and ultimately of the CC (or the ECtHR), but also due to procedural mistakes, it can take up to 10 years to reach a final verdict.

Third, the CC **gave legal immunity to information provided by the official state authorities.** In the view of the CC (Finding of the CC IV. ÚS 107/2010 from 28 October 2010), publishers of the periodical press are not obliged to select information provided by a state authority which can be seen as trustworthy. Otherwise the right of the public to get comprehensive information on issues of public interest would be denied. The CC referred in its rulings both to previous decisions of the ECtHR as well as to its own rulings (namely Finding of the CC III ÚS 83/01 which states that presumption of innocence is not violated by statements that only express the situation of suspicion of commission of a criminal act by a person).

Fourth, the CC also indirectly **differentiates between tabloid and serious media, giving higher societal value to the latter.** This was seen in the Finding I. ÚS 155/07 when the CC underlined the importance of professional competencies of journalists, including their impartiality (in the sense of not giving preferential

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<sup>70</sup> This section was reviewed by Dr Lucia Mokrá from the Faculty of Social and Economic Sciences, Comenius University, Bratislava.

treatment to interests or rights) as well as the value of not seeking worthless sensationalism and at the same time taking care regarding possible irreparable harm caused to another person.

Fifth, the CC also accepted **criticism of the judiciary by the media** in its decision (II. ÚS 152/08) from 15 December 2009. The chairperson of the CC stated that the CC *‘accepts the trend towards a shifting position of judges who seem to be located somewhere between politicians and common citizens’*. At the same time the chair of the CC underlined that judges have severely limited opportunity to react to occasional criticism or against potential media pressure. Finally, the chairperson differentiated between criticism and offence (Macejková, 2011b: 21-22, see also Feřková 2010b and Čahojová, 2005).

In short, the CC has moved towards a more liberal approach, favouring media freedom in the last two or three years, but has also at the same time given more protection to official sources of information. However, previously, the CC was more balanced in its approach towards freedom of speech and the media and protection of personality. This could be seen in the Ruling of the CC I. ÚS 67/06: *‘If there is a collision between the basic political right to freedom of speech and the right to information and its dissemination on the one hand, and the right to protection of personality on the other hand, i.e. between equal basic constitutional rights, it will always be an issue for independent courts, having in perspective the specifics of each particular case, to carefully balance, whether one right was not unjustifiably preferred’*.

The CC uses a ‘test of proportionality’ which is also useful in cases related to freedom of expression (see Findings II. ÚS 152/08, II. ÚS 326/09, see also Macejková, 2011b: 19-20). In addition, there is a specific test of media/freedom of speech which has six questions: Who, About Whom, What, Where, When and How information was made public. In answering these questions the CC uses a very liberal approach, usually referring to the case law of the ECtHR (Lingens v. Austria, 1986; Jerusalem v. Austria, 2001; Dichand and Others v. Austria, 2002).

### 4.3 Conclusion

The state, in its recent media policies, as well as some non-governmental institutions, and allegedly also some online media, have tried to diversify all types of media content. At the same time competing interests and legal restraints on content diversification have faced challenges due to the lack of experience in solving these issues, but also due to the conservative nature of the lower judiciary, state bureaucracy and the RVR. The most important media regulator - the RVR - shows a very conservative attitude towards controversial content, thus clearly limiting public debates.

Most journalists’ and publishers’ representations are not helpful in moderating these conflicting processes. Although higher courts, especially the CC, try to set some clear rules in the most conflicting area – libel and defamation cases – the lower courts are slow in understanding the importance of freedom of the media and are too strict in their expectations towards professionalism of the media.



## 5. The journalistic profession

The journalistic profession and its output are shaped by a number of factors. These factors can be divided primarily into societal (the quality of higher education and commercial influences versus normative regulations), professional (related to the individual and intellectual type of work, as well as the impact of peers on development of the profession) and technological (arising from changes in information and communication technologies).

The relationship between journalists and journalists' associations as well as publishers' and broadcasters' associations on the one hand, and the government and the political elite on the other, has varied over time in Slovakia. In the early 1990s a small group of journalists supported the new liberal democratic politicians, but another, increasingly government-dominated group supported the nationalist-populist politicians who ruled Slovakia in the period 1992-1998.

The majority of those journalists who were intertwined either with reporting or commenting on politics and/or economics throughout the last more-than-twenty years, have sooner or later challenged the politicians in power. Nevertheless, the social-political impact of journalistic reporting was initially relatively limited over the short-term. Increasingly, though, the sensitivity of politicians to media reporting led to the stronger and/or immediate impact of media reporting on politicians as documented during the I. Radičová government (2010-2012). However, too much sensitivity towards media reporting can lead to subordination of politics to journalism. Thus, the emotional impact of the media on politics has in two decades peaked towards an undesirably high level (although not in a sense of absolute real normative impact on politics). Identically, the initially high impact of all journalistic associations on politics, including media policy, has actually declined over time to a low level, while the more subtle influence of newly established publishers' and broadcasters' associations has actually increased to a medium level. This medium impact of publishers and broadcasters was present not only during direct negotiations with the government, but was seen more often and more 'visibly' via domestic and international protests presented in the media.

Those journalists, who supported national-populist politicians throughout most of the 1990s, established their own association. This association had close links with the government in power, including receipt of financial support. In addition, the national-populist government in power used various direct and indirect methods to influence or prevent critical reporting, including through the allocation of advertising (see Školka, 1996a, b, c, 2000). Today, this group of journalists is marginal in Slovak journalism and the association presents itself publicly very rarely. The main journalistic organisation, the SSJ, did oppose the nationalist-populist governments (1992-1998), and tried to cooperate on media policy with either predominantly right-centrist governments (1998-2006, and 2010-2011) or with the predominantly leftist government (2006-2010). However, these efforts at cooperation usually ended in conflict or, at least, disagreement over details of more than fifteen drafts of the Press Law, or other aspects of governmental media policy.

A key transformation of society included massive privatisation of state-owned property in the 1990s. The sociologist Kusá (2001) has suggested that the way the media represented political and economic life, in particular the privatisation process in Slovakia, exerted a negative impact upon the self-confidence of citizens throughout the 1990s. This was supposed to happen when 'vague and sloppily supported or groundless claims were taken as granted (and in that way legitimized)' (Kusá, 2001:

173). This may or may not be a true conclusion. Since her study also gives evidence considering the mobilisation of informal networks as the most effective instrument of social and economic advance (Kusá, 2001: 164), which was clearly shown in the later period especially in the case of privatisation, the media perhaps merely reflected a traditionally negatively framed reality. Thus, the media indeed ‘multiplied and strengthened people’s experiences’ (Kusá, 2001:165). However, normatively, the role of the media was not ‘a public control mechanism’ but instead, ‘a mourning person reading aloud complaints on miserable fate which then have to be repeated in chorus’ (Kusá 2001: 169). In some cases, the media themselves discouraged public discussion (Kusá 2001: 170).

In fact, the majority of journalists and editors interviewed understand their professional-public role as both an information-provider and watch-dog. Some journalists claim that they “want to show that life around is interesting, colourful, as well as to make the world around seem as normal” (a TV reporter from a local TV station). In practice, though, journalists live in a deeply distrustful society and a journalist’s job is by definition concerned with distrust (dealing with negative issues in general). Therefore, their contribution to public discourse and trust in society is in this sense more negative than positive (i.e. stressing everything negative, even scandalous, rather than positive). It can be mentioned here as a curiosity that TA3, the only television news channel in Slovakia, introduced a new format, ‘Good News’ (in addition to traditional news) in 2011. This is more likely part of a general move of television news towards infotainment. In general, the daily press offers little analytical material in its news reports, although there has been a visible shift towards more analytical and/or more human stories.

In November 2011 the overwhelming majority of journalists (about 90%) in our mini survey agreed that journalists can work freely (30%) or quite freely (60%). The main factors that influence freedom of journalists in Slovakia at the macro-level include the business and, to a lesser degree, the political interests of media owners or sponsors, especially in local and regional media. The professionalism of journalists’ output is also shaped by the sometimes limited competence of editors and many young journalists, as well as the hesitancy of state and local authorities to provide information in time or at all, as well as the obviously manufactured style of work of the journalists. The main factors that influence freedom of journalists in Slovakia at the micro-level (day-to-day work) include pressures and threats from people who are being criticised – especially from politicians.

The definition of journalism and journalists has little by little changed in the new media context. The phenomenon of blogging and market pressures (more freelancers and part-time or temporary contracts) has drawn a large number of people into a special sort of semi-independent journalism or quasi-journalism.

## **5.1 Education of journalists**

There is a long-term problem with the quality of higher education in Slovakia in general and in journalism/media studies in particular. In short, there are no respected college/university programmes in journalism/media in Slovakia (and in fact no truly internationally competitive universities), although the Department of Journalism at Comenius University in Bratislava is seen as offering, comparatively speaking, the best quality education in journalism studies. This is the result of the relative and absolute lower number of students, the relatively high number of applicants and the long tradition of education in journalism. Annual university rankings claim that the

largest public faculty specialising in media studies in Trnava is ‘an exception among all similar faculties evaluated’ in the sense that its “quality and the results achieved show long-term stagnation” (Ostrovský, 2010: 30 ). Its quality ranking is less than half that of the best faculty in the same category (Ostrovský, 2010: 29).<sup>71</sup> Of course that is not to say it is impossible to find excellent graduates from all types of journalism/mass media studies institutions.

In general, journalism/media studies curricula seem to be outdated. Firstly, these are by and large based on rote learning and memorising data. Secondly, these curricula are mostly too narrowly focused on journalistic issues (e.g. history of journalism) and not on more general (e.g. liberal arts) or specialised (e.g. energy) knowledge. Thirdly, very little practical experience is offered in journalism in general and often little practical experience in other media fields (e.g. radio, TV, online media, print media). Perhaps the most important issue is the general lack of a truly intellectual approach to university studies in Slovakia i.e. the development of analytical, logical and creative skills including the development of the ability to differentiate between important and unimportant issues.

An example of this can be found in the November 2011 mini-survey of the SSJ among five leading professionals (senior editors and editors-in-chief) which revealed their almost unanimous dissatisfaction as respects the quality of journalism studies in Slovakia measured by ‘output’. The main complaints and at the same time expectations with respect to journalism studies graduates included: knowing how to write, how to talk, intertwining theory and practice, using independent and logical thinking, knowing how to identify the substance of an issue, checking and updating information and effective questioning skills.<sup>72</sup> All these complaints represent the typical and significant failures of the Slovak higher education system in humanities.

Our mini-survey suggested that less than 10% of professionals believe that journalism and media schools in Slovakia significantly contribute to the free and independent work of the media in Slovakia, while about 45% attributed limited positive impact or contribution to them. A quarter of the respondents, (a not insignificant proportion) were either unwilling or unable to state an opinion on this issue.

Be that as it may, only a minority of journalism/media studies graduates actually work in the media sector which is already something of a saturated market. Furthermore, in some editorial offices about half the employees graduated in non-journalism/media disciplines. Nevertheless, there is a prevailing lack of interest among universities in changing the current system of education in journalism/media studies.

At the same time our research suggests that, contrary to general belief, a good journalist does not necessarily have to have a degree in journalism/media studies or indeed any college/university degree at all (Glovičko, 2011a, Bella, 2011). We have found a number of examples where the ‘best’ journalists were actually self-taught ‘amateurs’ (often having finished only professional vocational training or not having finished their university studies). Furthermore, a significant percentage of journalists (especially in local TV stations) are graduates from non-journalistic schools or often have only high school education. These research results do not suggest that higher education is without value for journalists. The empirical results rather suggest that a

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<sup>71</sup> In fact, it fared even worse in the 2011 ranking. See <http://www.arra.sk/ranking-2011> (date accessed 30 November 2011).

<sup>72</sup> <http://www.mediahit.sk/?id=187>, <http://www.mediahit.sk/?id=189>, <http://www.mediahit.sk/?id=186>, <http://www.mediahit.sk/?id=185> (date accessed 23 November 2011).

background in specialised curricula (or in liberal arts) and a personal interest in further education is more advantageous for practical journalism and that, should higher (college) education be made a requirement for all journalists (as was indeed demanded by the former PM R. Fico and former vice-prime minister D. Čaplovič in the 2006-2010 government), this would eliminate some of the most talented journalists from the profession.

Another November 2011 mini-survey among Slovak business people (72 participants) revealed that almost two thirds would prefer to cut the number of universities in Slovakia while only 22% would disagree with this radical solution.<sup>73</sup> These results suggest that there are indeed serious problems with the quality of higher education, not only in the field of journalism studies. In this context perhaps ironically, the SSJ has participated in establishing another journalism school in Slovakia in 2011. The Academy of the Media should be more practically focused in its curricula.

The journalists in larger editorial chains and in the capital have various opportunities to educate themselves. Specialised courses are offered by their employers or the SSJ. Journalists working in far-away regions and in small offices are not so fortunate. Although the interesting idea of providing these courses online or via e-mail has been proposed, this idea has not yet materialised.

## **5.2 Problems with keeping professional standards and interests**

The extent to which journalists in Slovakia are ready to uphold their distinct interests as a professional group, as well as to uphold a set of journalistic values, is rather low. There is no respected and influential organisation of journalists in Slovakia. Our mini-survey suggested that just one sixth of respondents see the major journalistic organisation, the SSJ (member of the European Federation of Journalists), as having a significant impact on, or making a contribution to, the free and independent work of Slovak journalists. Almost half of the respondents felt the impact and contribution of the SSJ in this area was low, while about a quarter of journalists identified zero or negative impact on journalism in Slovakia. Other professional journalism organisations were seen either as 'invisible' or making an even lower contribution to the free and independent work of the media in Slovakia.

The primary reason for this dire situation is that, on the one hand, journalists are simply too occupied with their work. In fact, many of them, especially in local and regional media, work in various combined roles (e.g. editor and at the same time advertising manager or reporter). On the other hand, the SSJ has done little to build up its prestige as a flagship of excellent journalism among media professionals.

The secondary reason stems from the very nature of their individual work, which is by definition self-focused rather than being interested in collective actions. There is also an internal problem - that of journalists who often believe that they have a special status (mission) in society - and a broader problem that reflects the fact that journalists often give preferential treatment to topics (agenda-setting and priming) which are not necessarily seen as the most important issues by the public at large, or by politicians. In fact, journalists tend to reinforce their prejudices through the specific selection of people who confirm these prejudices or biases.

There have been cases where some editors have, under public pressure, dismissed journalists who have been guilty of unethical behaviour. Yet at the same

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<sup>73</sup> <http://www.etrend.sk/barometer> (date accessed 9 November 2011).

there is also the continual problem of mixing advertisements with editorial content in a large part of the media (in the case of TV broadcast this is actually legally permitted).

The low level of interest shown in pursuing common interests can be seen in view of the evidence that out of an estimated 5,000 working journalists in Slovakia, only a small number (if we exclude students, pensioners and free-lancers), perhaps as low as 10% of actively working journalists, are members of the SSJ.<sup>74</sup> Additionally, approximately 15 journalists are organised in the SS AEJ. Yet even the SSJ is by and large ignored in the decision-making process by politicians seeking to create media regulation according to their vision, although the various protest calls of the SSJ, or the APPP have a modest impact on media policy in Slovakia.

The dubious role of the SSJ as a standard-bearer of professional values can be seen in another example. It was a surprise to find, while carrying out this research, that the major journalistic organisation did not include the Press Law and other media laws but only the Code of Ethics among the most important documents on its website.<sup>75</sup> After inquiring about this omission, the SSJ included most media legislation there but again, without paying particular attention to the correctness of this data (i.e. the most recent media legislation was not present).

Examination of the relationship between journalists and media owners suggests that corporate owners, and by definition larger or smaller foreign owners, are usually not interested in political issues/agenda but in overall profit, and this certainly from a longer perspective. If corporate owners are interested in politics, then it is usually either from the point of view of how it can harm profits, or - exceptionally - how the media can be used to achieve their clear political aims. The latter case happened in the mid 1990s, when the major private TV station was used as a propaganda vehicle for the political aims of its Slovak co-owner. In addition, election periods seem to be where reported cases of increasing political interference are most common (with the aim of getting propaganda coverage especially in the local media).

Overall, the dependencies that exist between the employer and the employee are seen to have a negative effect on news coverage and reporting from the point of view of journalism in the case of tabloid media, but at the same time, only those larger private owners seem to be able to guarantee proper equipment and decent salaries for journalists, especially in regional editorial offices.

Neither do small local, usually municipal, television stations guarantee independent and quality journalism reporting. These stations depend for their financing on municipalities (even if these TV stations are based on private ownership) and are forced to broadcast - occasionally at least - positive coverage about the most important local corporations (who typically sponsor the station).

Still, the best watchdog for a liberal democratic society is to be found among the national weeklies and national daily newspapers. Local weeklies and bi-weeklies have limited opportunities for investigative journalism or anything other than standard reporting in the style of news agencies. Worryingly, online and tabloid publishing seems to motivate publishers to offer intellectually much simpler products than is generally the case in print publishing.

Some journalists have excellent working conditions and salaries, and the majority of journalists have a good income level compared to other professions.

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<sup>74</sup> In November 2011, out of a total of 1,800-1,850 SSJ members, more than one third were pensioners, 50-60 were students of journalism, 60 were unemployed, 220-240 had a main job other than in the media, 300 were freelancers and only about 500 actually worked in media offices.

<sup>75</sup> See <http://www.ssn.sk/?id=45&num=46&lang=sk> (date accessed 10 May 2011).

However, it is well-known among journalists that some of them take bribes or prepare misleading reports due to financial troubles, or as a result of personal relationships. There is a general trend to employ journalists not via standard labour relationships but in various non-permanent labour or out-of labour (author's) contracts. This trend is especially strong in smaller local and regional media.

There is also increasingly sophisticated pressure from PR agencies which tend to use freelance journalists to achieve their PR goals.

However, market pressures do not only influence individuals. A number of outrageous cases were uncovered in 2008-2010 where the editorial-business policy of the private news television channel, TA3, set clear internal guidelines, first about what was not allowed to be broadcast in news and investigative programmes (Fila, 2008) and second, what was presented as business news but was in fact preferential coverage given to those subjects who had already paid for advertisements (Múčka, 2008, Šipoš, 2010b). Worryingly, wire agencies also offer PR services (presenting some advertisements as articles).

Yet at the same time it should be mentioned here that the large foreign-owned media conglomerates with regional print media are actually functioning as shields for their local outlets vis-à-vis pressures from local vested interests.

### **5.3 Technological developments and journalism**

Technological developments have affected journalistic practices through on-line versions of traditional media (not only print media), totally new online-only media (including news portals) and through the availability of freely accessible information of the encyclopaedic and official (public authorities) type. The impact of the Internet is thus both felt on the commercial aspects of the media work but also on journalists' work methods. A special case in point is bloggers. Bloggers - especially those who are better-known - occasionally provide publicly available leads for reporting as well as for identifying experts (see Struhárik, 2010). However, the authorities take accusations of wrong-doing seriously even when published by anonymous or fake bloggers (see Trško, 2011). Although almost 20% of journalists claim to have their own blog, only a few journalists genuinely use blogs for reporting on issues or topics that for various reasons are not of interest or given space in traditional media. This is the result of the fact that, some media see blogging as a part of the image of the medium, thus binding journalists to follow internal ethical rules for blogging as well as for their expression on social networks.<sup>76</sup> For example, there is a Special Code for journalists of the daily newspaper Sme who use social networks.<sup>77</sup>

Thus, the Internet and citizen journalism has not had a significant impact on journalists' freedom and independence. Still, if a journalist wishes to publish a blog, it is better for him or her to do it under a pseudonym. At least one case has been reported where a journalist who published a regular blog was critically questioned by his superiors in PSM television.

The Internet has provided cheap and varied sources of information, simplified archive searches and blogs have at times provided interesting leads for reports. New technologies have brought lower cost information storage and also the need to have

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<sup>76</sup> See Code of Ethics of daily Sme, article IX, <http://www.sme.sk/c/3498627/eticky-kodex-dennika-sme.html> (date accessed 23 November 2011).

<sup>77</sup> <http://www.sme.sk/c/5711878/pravidla-pre-pouzivanie-socialnych-sieti-redaktormi-sme.html>. (date accessed 23 November 2011).

more experienced editors able to process multiple sources of information. Facebook and newspapers websites have created more opportunities for story leads.

Initially, in the first ten years of this century (2000-2010) Internet debates were far from rational discourse. As a result, various methods and tools were increasingly used in an attempt to 'civilise' online discourse. First, some readers urged providers to block or delete some offensive messages. Later, providers introduced strict policies, including automatic deletion or blocking of offensive language, or indeed blocking the blogger totally. Latterly, in May-June 2011, and in line with previous attempts to make online readers and online viewers pay for intellectual work, the pool system Piano was introduced which blocked free use of some content from some information sources. Therefore, it definitely limited public online discussions. At the same time, it ended the almost unlimited possibilities for (most often passionate and sometimes vulgar) commentaries under articles (Ksenzšihová, 2011).

Thus, it can be argued that, provided that discussions are suitably moderated, online media can enhance the possibility for democratic discourse, although market pressures have limited the scope of socio-political debates.

#### **5.4 Self-regulation**

Self-regulatory mechanisms are of little effect in enforcing existing norms and rules regarding journalistic (and citizens' journalism) standards and practices. We have described the factors that undermine the ability of self-regulatory mechanisms in the press sector to enforce the rules in our previous analysis (Školkay-Hong, 2011). To summarise, these factors include the dysfunctional composition of the self-regulatory body (PrC), the resultant poor understanding of how the media operate, and the low level of interest among journalists and print media owners in self-regulation. Self-regulation was actually established and supported by print media owners only when the state increasingly threatened to pass a new Press Law which would have included state regulation of the press. The ambiguous role of the PrC can be seen in the results of our mini-survey. Of those who commented on its contribution to the free and independent work of the media, only one third credited the PrC as having a positive impact. The most common feeling was that sometimes its impact is positive, sometimes negative. Additionally, a quarter of respondents believed that the PrC actually harms the free and independent work of the media.

The rules and norms applying to 'traditional' journalists (i.e. national codes of conduct) attempt to apply the same rules in the new media environment. For example, the new Code of Ethics of the Journalist mentions bloggers and gives them the ethical-professional rules stated in this Code as an example to follow. Similarly, the PrC (and its funding bodies) has discussed expanding its competencies to include electronic media, including online media in late 2011.

A new Code of Ethics for Journalists was adopted towards the end of 2010. Prepared under the auspices of the SSJ, it actually offers lower protection of journalistic professional-ethical standards and rights. Further, the new Code of Ethics is more focused on liberal and individual values than on wider social and communal values. It is an open question whether this is the best approach to ethical issues in journalism. There seems to be weaker protection of journalists in terms of labour relations. Previously, journalists had the right to a contract that secured their material needs and professional honour. The journalist was also entitled to refuse any pressure to act against his or her convictions. Stated positively, a journalist could accept orders

from his/her superiors only according to the terms of his/her contract. Finally, there was a right to be protected by his/her superiors and publisher by all legal and accessible means. Currently, the Code of Ethics states that *'editorial offices and journalists in managerial positions'* (thus neither media owners nor managers) *'protect freedom of expression of the journalist and in case of need provide'*, if possible, *adequate legal protection* (thus not all legal and accessible means as it was previously the case). There is nothing about what constitutes a fair honorarium or a fair working contract either. However, our mini-survey suggests that there is little relationship between the legal form of employment and the independence of journalists. The highest level of freedom is actually secured while working as a freelancer (33%) and then in full-employment contracts (18%).

While previously the right to refuse some tasks existed, currently *'the journalist cannot be forced to undertake such an activity or participate in the creation of statements which would fundamentally* (thus not 'any' activity as was previously the case) *contradict his or her convictions'*. It is true that the Code of Ethics promises 'no harm' when asserting this right.

In addition to the allegedly universally binding Code of Ethics of the Journalist, PSM have their own internal editorial professional-ethical guidelines. In general, it seems that more than half of the key media (the bigger the medium the more likely it is to have its own ethical-professional regulation) have either their own professional editorial guidelines (e.g. the daily newspaper Pravda), or their own ethical codes (e.g. the daily newspaper Sme). The new Code of Ethics of the Journalist specifically allows the retention of these pre-existing internal ethical codes. However, the Code of Ethics of the Journalist does not explain which code of ethics would prevail in the event of a disagreement between the two. This potential normative conflict was explained by Zuzana Krútka, former chair of the SSJ, on the grounds that *'they should not contradict each other'*.<sup>78</sup> This may or may not be true.

The majority of journalists interviewed who were working in smaller outlets had no knowledge about any ethical code and/or did not have their own code of ethics or internal professional guidelines. Some (e.g. City TV in Dunajská Streda) claimed to use the BBC Code of Ethics. A different situation exists in the major media who face greater pressures from internal or external supervisory authorities. Sometimes here we can find 'informal internal editorial rules' which was the case with Radio Express.

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<sup>78</sup> E-mail [krutka.zuzana@ssn.sk](mailto:krutka.zuzana@ssn.sk), dated 22 July 2011.



## 6. Media literacy and transparency requirements

Media literacy is seen as a new condition for full utilization of social and political rights. Media literacy in Slovakia, defined as the capacity of individuals to interpret, analyse, process and contextualise media messages, has probably reached the average levels of the country's counterparts in many Western and Eastern European countries. Slovakia's media literacy was assessed in a 2009 EU study as basic, both at the individual as well as the environmental levels. However, some improvement was noted in some media literacy abilities in Slovakia in the 2011 study (Celot, 2009: 69, Celot and Shapiro, 2011). Even though the 2009 study evaluated the individual competencies of Slovak media users as being at an average level, Slovakia's media environment factors fell far behind other countries surveyed in both 2009 and 2011 studies. Yet Slovakia was found to be in the second best cluster of the three country clusters in the 2011 study, and the critical understanding (as the most important criterion for media literacy) of its citizens reached average level in 2011. It is unclear how Slovakia's citizens could increase their media literacy competencies in just two years. Most likely, there are some issues with the measurements or sample (either in the 2009 or 2011 study). As confirmed by Agnes Bruszik, a member of the research team, some data on internet-use related questions were lost '*which seriously affected the extrapolations of results to countries not involved in the survey*'. In fact, the measurement was only done '*in 7 countries and the rest of 20 countries was extrapolated from this only using Eurostat aggregate data for the 20 countries and because the majority of the Eurostat data are about internet use*'. Finally, Bruszik argues '*the results of this country ranking exercise shall not be considered as any indication of reality*'.<sup>79</sup>

In general, although the Media Education Conception in the Context of Lifelong Learning in Slovakia was approved by the Government in December 2009,<sup>80</sup> and despite the existence of two governmental plenipotentiaries in closely related areas – one for knowledge economy, and another for information society - governmental policies in media literacy development are only in their initial development stages with a focus on the younger generation. Additionally, there have been few non-governmental initiatives in this area. However, new programmes or departments/centres specialising in media literacy/education have emerged or are emerging at some Slovak universities

Slovakia, as part of the former Czechoslovakia, abandoned censorship during the Velvet Revolution in 1989. During the censorship period (1951-1989) people were used to distrusting official messages and tended to interpret messages in their own way. Since then, during a turbulent transition period, the Slovak media audience has attempted to acquire the completely new set of skills required for critical analysis of media coverage. It should be noted here that even under communism some forms of media literacy and media education were present in Slovakia. These attempts included both practical approaches such as high school or indeed primary school magazines prepared by students, as well as some attempts at text analysis in literature classes, among others.

Nevertheless, the democratic learning period soon coincided with the start of the worldwide web, online media and digital broadcasting. These developments produced or strengthened a digital and knowledge divide among Slovak media

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<sup>79</sup> Email from Agnes Bruszik, bruszika@yahoo.com, 12 December 2011.

<sup>80</sup> See <http://www.culture.gov.sk/media-audiovizia/koncepcia-medialnej-vychovy> (date accessed 10 May 2011).

consumers, based on their economic and social status, education, ethnicity and mother tongue. Since citizens' political literacy is strongly connected to their understanding of media messages (Kacerová, 2009), this media literacy divide translates itself into inefficiencies in political understanding. A majority of the population (53%) claim they do not understand politics, and education is seen as the main factor influencing political literacy in Slovakia (Plichtová, Bútorová, Gyárfášová, 2009). It should be mentioned here that the system of education at all levels has not changed much and still encourages memorising of facts rather than critical thinking.

The overwhelming majority of the population (76%) use the Internet, so technical skills do not constitute a significant obstacle to new media access.<sup>81</sup> Among children, high school students and college students, the Internet has already replaced television as the main source of information.

Still, media literacy at an individual level cannot be limited solely to media usage. The first such nation-wide research, the OECD's Programme for the International Assessment of Adult Competencies (PIAAC), will be carried out between August 2011 and March 2012. The international comparative results will be available in 2013.

It seems that neither the present nor the future generations of Slovak leaders are well suited for deliberative discourse as a tool for understanding media messages. For example, an empirical case study by Plichtová and Hapalová (2008) has found that university students were unable and/or unwilling to use rational discussion as a tool for clarifying and solving problematic issues. Both authors suggest that ways should be found to create and cultivate proper institutional support for dialogue among politicians and the public. It seems clear that among these institutions both educational as well as media subjects should be included. It is in this context that media literacy is a key tool for understanding social and political media discourse.

Domestic data regarding the cognitive and communicative abilities (excepting Internet and PC use, see for example Velšic, 2010 or Velšic, 2011) of Slovak adult media users are not available at all. We suggest that this is further evidence that there has been only a limited interest in media literacy development in adults among Slovak policy makers. The researchers found that most young adults in Slovakia are actually capable of resisting media manipulation, adding that this is rather an intuitive ability than a systematic functional skill. However, these young adults are not adequately efficient in dealing with complicated and concealed messages imposing new values or consumer choices (Vrabec, 2007: 38). Of serious concern for the future development of a politically educated generation is the finding, that over 80% of young people are not interested in information about political parties, national or municipal governments.<sup>82</sup>

Although media literacy as a special educational subject entered the official political sphere in Slovakia in 2006 in the Governmental Platform, only in 2008 was an *ad hoc* governmental commission established at the Ministry of Culture. A strategy draft called Media Education Conception in the Context of Lifelong Learning in Slovakia<sup>83</sup> was more informational than transformative, but it did include some real

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<sup>81</sup> Survey on the use of information and communication technologies in households, I.Q 2010. Statistical Office, February 2010, available at: [http://portal.statistics.sk/files/Sekcie/sek\\_500/doprava-IKT/def\\_publikacia\\_hh\\_2010.pdf](http://portal.statistics.sk/files/Sekcie/sek_500/doprava-IKT/def_publikacia_hh_2010.pdf) (date accessed 23 November 2011).

<sup>82</sup> Interview with Norbert Vrabec and Dana Petranová, 4 April 2011.

<sup>83</sup> Návrh koncepcie mediálnej výchovy v Slovenskej republike v kontexte celoživotného vzdelávania [The draft conception of media education in Slovakia in the context of lifelong learning], Ministry of Culture, 16 December 2009, available at:

tasks.<sup>84</sup> In 2011, this initiative was supposed to be followed by the Media Education Conception for Informal Education (1 May 2011) and by practical implementation focused on media literacy initiatives for adults (1 December 2011). None of these goals seems to have been achieved as planned. Although one of the key institutional achievements was the foundation of the International Media Education Centre (IMEC) in February 2011, this centre received no financial support from the Government as had been expected in the strategy draft. The IMEC has already started its first programme Media Education for High School Teachers in 2011.

Experts at the IMEC consider the attitude of the Slovak government authorities to media literacy promotion as satisfactory. However, with the exception of the Media Education Conception from 2009, official authorities have demonstrated little in the way of significant efforts at strengthening media literacy in relation to the media and/or adults in Slovakia. One of the few domestic policy initiatives was the introduction of the age propriety programme rating and classification in television broadcasting, introduced in January 2008.<sup>85</sup>

Perhaps ironically, the tabloid media may perhaps be more helpful in critical media usage. For example, the leading daily tabloid *Nový Čas* on 20 May 2011, published two full pages devoted to child safety on the Internet. Meanwhile, schools consider such traditional activities as publishing pupils' magazines, broadcasting school radio, digital camera workshops and making photo-documentaries of student activities as media literacy education (see Kačínová, 2010: 45). Furthermore, all three stages of media literacy education at primary and secondary level are in fact identical in content, and educational aims are stated only in general or indirect terms (Kačínová, 2010: 46-47).

One of the few media literacy initiatives in 2010-2011 aimed at the wider public (children), was the TV series *Media Spies*, produced by the Slovak PSM. This regular Saturday morning media literacy programme for youth was broadcast in late 2010 - early 2011 (Glasnerová, 2010). This programme presented a kind of basic education on various media issues in an entertaining form, although it was at times slightly didactic. It is no surprise, based on the popularity of its blog (2700 views), YouTube channel (50 views) and Facebook page (36 fans) in April 2011, that it hardly impacted on the target group of young people. Official data provided by the RTVS suggested that this was indeed the case, with the programme reaching a maximum viewership of 4% in March 2011 of the age group over 12 years.<sup>86</sup> It is another open question whether and how this programme contributed to increasing media literacy levels among its target group.

Another example of media literacy promotion comes from the semi-state Press Agency of the Slovak Republic - TASR. The project 'TASR for Every School' started by allowing schools access to the complete TASR news database. The programme targets aspiring journalists. It teaches the basics of media work and collects student

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<http://www.rokovania.sk/File.aspx/ViewDocumentHtml/Mater-Dokum-117176?prefixFile=m> (date accessed 23 November 2011).

<sup>84</sup> See *Uznesenie vlády Slovenskej republiky č. 923 zo 16. decembra 2009 k návrhu koncepcie mediálnej výchovy v Slovenskej republike v kontexte celoživotného vzdelávania* [Decision of the Government of the Slovak Republic No. 923 of 16 December 2009 on the conception of media education in the context of life-long learning in Slovakia], available at: <http://www.rokovania.sk/File.aspx/ViewDocumentHtml/Uznesenie10474?listName=Uznesenia&prefixFile=m> (date accessed November 23, 2011).

<sup>85</sup> Audiovisual Act No. 343/2007 Coll.

<sup>86</sup> Email from Richard Šumeghy, spokesperson of RTVS, [Richard.Sumeghy@rozhlas.sk](mailto:Richard.Sumeghy@rozhlas.sk), 15 August 2011.

news from all corners of Slovakia. Authors of the best submissions are rewarded with an official TASR Junior Journalist Press Credential.

It is true that the government in its 2010 Platform promised to prepare a single system of TV programme classification with an emphasis on protection of human dignity and protection of minors by the end of 2012. Similarly, the Government pledged in its Platform to “support, at an international level,” the better protection of children against online threats.<sup>87</sup> Finally, the Government explicitly supported a ‘*shift from memorizing to capacity building and to the ability to search, utilize and also critically evaluate information*’ and to ‘*strengthening the status of libraries as centres of knowledge*’.<sup>88</sup> Yet the last intention of the Government seems to be a rather old-fashioned approach to increasing media literacy levels, taking media literacy really very literally.

Most active in popularising media literacy among the wider public in Slovakia, is civil society (often supported by state or EU funding). One of the most sophisticated services was the Slovak Press Watch, found in 2002 as a press monitoring blog of the INEKO think-tank (Institute of Economic and Social Reforms). Through his blog, the founder Gabriel Šípoš intended to promote professionalism in journalism, provide feedback about news coverage, and inspire Slovak media consumers to think critically about what they read. In hundreds of blog entries, Šípoš (and later his interns) carried out fact-checking, highlighted errors, misleading commentaries and inconsistencies in print and TV news coverage. By 2010, the average readership of SPW had reached around 30,000. After eight years, the SPW project was terminated in January 2011 due to new work commitments of its founder who allegedly ‘*has not found a suitable successor*’. In fact, a new successor was soon found independently, and a new project, Mediawatch, started in summer of 2011.<sup>89</sup>

## 6.1 Media transparency

The media environment in Slovakia is insufficiently transparent. According to formal requirements, media ownership information has to be disclosed and published on a regular basis. There are deficiencies in the regulation of media concentration which media owners tend to get around. One of the most obvious examples was the sale of the daily newspaper Pravda in 2010. The process of the ownership transfer from Northcliff International was non-transparent and even the editorial staff of Pravda did not know who the real owner of the paper was. The formal owner implicitly stated that the real owner was not prepared to disclose his name. The main negotiator of the transfer was a prominent financial group J&T which had personal ties to TV JOJ. If the group were to admit ownership of the paper, it would be in a violation of media cross-ownership laws. The new official owner has previously been involved only in renting real estate.

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<sup>87</sup> See Programové vyhlásenie vlády SR [Manifesto of the Government], chapter 3.5 Kultúra [Culture], available at: <http://www.vlada.gov.sk/22879/3-5-kultura.php> (date accessed 12 May 2011).

<sup>88</sup> See Programové vyhlásenie vlády SR [Manifesto of the Government], chapter 3.4 Školstvo, veda, mládež a šport [Education, science, youth and sport], available at: <http://www.vlada.gov.sk/22878/3-4-skolstvo-veda-mladez-a-sport.php>, and chapter 3.5 Kultúra [Culture], <http://www.vlada.gov.sk/22879/3-5-kultura.php> (date accessed 12 May 2011)

<sup>89</sup> See <http://medialne.blog.etrend.sk/mediawatch> (date accessed 23 November 2011).

Although (or because) real media regulation enforcement in Slovakia seems to be inefficient in anti-concentration measures, some media analysts suggest that formal cross-ownership regulation in Slovakia is unreasonably strict. However, an online list of media owners has been published which may help in increasing media ownership transparency.<sup>90</sup>

The media literacy initiatives are not complemented by the imposition of efficient transparency requirements on media operators regarding, among other things, ownership and modes of financing, or political influences, so as to enable citizens to make informed choices about the media services they choose and the weight to ascribe to the information they receive. For example, it is interesting, and controversial that all members of the advisory body set up by the MC at their first meeting in October 2010 unanimously agreed that it was not a good idea to publish basic information about the ownership structure of the publishers in the first issue of each periodical, such as information on shareholders, voting rights or on the basic property of a broadcaster. Allegedly, it was enough to collect this type of information at a ministerial level (MC, 2010d, e). This was actually a step back from previous regulation.

## 6.2 Summary

To summarise, there is probably a medium level of media literacy among adults in Slovakia and medium support for media literacy coming from the political elites and the administration. The herald of media literacy in Slovakia, the IMEC was only founded in 2011 and it still has to lay out its educational plans, especially as regards the adult population lacking in any formal media education. However, the IMEC did not receive any support from the state. The IMEC has not as yet followed the two key activities outlined in the state strategy document on media literacy for 2011, although it plans to pay attention to these key strategic documents in the future.<sup>91</sup>

The Slovak government will report for the first time on the state of media education and media literacy in February 2013. This will then become a tri-annual regular report to the EC. Yet we already know that there are still some unresolved issues in media literacy education in Slovakia. These issues are related to the lack of necessary modern audiovisual technology at many primary and some secondary schools (especially in rural areas), and more importantly, a lack of deeper, or indeed even basic (see Žilková, 2010: 36) knowledge about media education among primary and secondary teachers. In addition there is a lack of proper educational materials in media literacy and in general a lack of (education towards) critical thinking and the use of innovative educational methods at primary and secondary school level (Petranová, 2010: 82 and Kačínová, 2010: 50). A system of evaluation and measurement of levels of media literacy is also missing (Kačínová, 2010: 48). Finally, there is no clear vision regarding the content of media literacy education (see Žilková, 2010: 35) and no co-ordinated approach to media literacy (see Žilková, 2010: 36 and Slavíková, 2010: 20).

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<sup>90</sup> See <http://transparency.buckleup.sk/owner/532> (date accessed 12 November 2011).

<sup>91</sup> E-mail from Mgr. Norbert Vrabec, PhD. IMEC, 22 November 2011, [nvrabec@gmail.com](mailto:nvrabec@gmail.com).

## 7. Conclusion

The contribution of domestic media policy to the protection and promotion of media freedom and independence in Slovakia can be seen as controversial. In spite of the fact that there has been a lack of coherent and premeditated media policy throughout the last two decades, one can indirectly identify some common features of media policy in Slovakia. These include continuous support for the dual system of media in broadcasting, protection of the plurality of information sources, tacking about between freedom and responsibility of the media, and protection of the media content consumer with special attention devoted to minors. However, the implementation of media policy in a way that supports the free and independent work of the media faces drawbacks in the case of general courts and in the case of the RVR.

The main actors exerting substantive influence on media policy formulation and implementation are the MC (and the CoCo), the RVR, the Parliament and the judiciary - with the impact of the CC being especially positive.

The government enjoys relative autonomy in shaping media policy, but some influence of corporate interests is also present. The major journalistic organisation plays a very limited role in media policy formulation and similarly, self-regulation in the print sector is inefficient. Civil society plays a marginal role in the process of media policy formulation but can influence, through easy and cheap communication tools, the implementation of the media policy by sending complaints to the RVR.

The role of the EU is important in the sense that it sets some standards in broadcasting. However, the importance of the ECFR has not been noticeable so far. The role of the CoE is important only through the ECtHR which is of unique importance. The rulings of the ECtHR are - via the CC findings and its own rulings – transferred as standards in freedom of speech and of the press, as well as in access to information.

Our study suggests that media policy has two generally valid limitations or rules that frame the free and independent work of the media in the long run. On the one hand, it is by and large beneficial when the state (government), local authorities (municipalities, regional self-governing bodies) or private owners do not intervene too much in media matters. On the other hand, when the same bodies do not address at all media policy matters, this lack of interest in long-term media policy can lead to negative consequences for the free and independent work of the media. The worst scenario is when there is sporadic, arbitrary intervention into media matters but no care is taken about long-term policy goals. This was actually the case in public service television in Slovakia for almost two decades. Similarly, little attention was given to the development of regional media in Slovakia. As a result, local and regional TV stations, as well as many local weeklies or bi-weeklies, play the role of bulletin boards regarding local and regional issues but not of a critical democratic agora.

An improper balance of the above-mentioned basic media policy characteristics can result in disfunctionality of some media segments and, indirectly, but more importantly, in the improper functioning of a liberal democratic society. Nevertheless, there is some promising evidence that potential exists for a more important role for the media in the Slovak social and political system. Yet we have also presented some evidence that media policy has suffered some drawbacks which hinder the fuller development of this potential media contribution to democracy in Slovakia.

Sociological research suggests that for at least a decade, the Slovak society has been in a mood of deep anomie. Overall, the general public shows a high level of

societal anomie: over 58% in 2008. This is a lower level than in 2001 but still a large part of the Slovak society sees a society that significantly deviates from a standard or 'normal' situation. In other words, citizens do not see that society functions properly. The level of societal anomie regarding the lack of norms and with respect to the dysfunctionality of institutions was almost 53% in 2008 and 63% with respect to the failure of disciplinary authorities (Schenk, 2010: 295-296).

This state of anomie can be explained on the one hand by the impact of vested and lobby interests on policy formulation in Slovakia, and on the other hand, by a problem with intellectual and political leadership, as well as, in part, the state bureaucracies' low cognitive competencies, and their actual or perceived (dys)functionality and lack of moral integrity.

The controversies that surround media policy-making (or lack thereof) are, in the final analysis, the result of making political decisions at the CoCo level. The CoCo is extra constitutional but the most important political decision-making body in Slovakia. However, politicians can hardly be experts on all public policies. They should be at least well-educated (especially if their advisors and major internal or external experts at ministries are political nominees). There is indeed strong criticism of the level of education of Slovak politicians (as part of general criticism of higher education in Slovakia). As put by Professor V. Bužek (2011), "*(Slovak) politicians are a product of our terrible universities. Consequently, not only they but the whole of society reflects the level of our universities*".

As we have mentioned elsewhere (Školkaý-Hong, 2011: 14) inconsistent and mostly hesitant media policy making was also the result of lower access to expertise and/or lower interest in expertise at the level of public servants (e.g. Sibyla, 2011). However, it is not true as stated in a recent study (Malíková, 2011: 87) that in the process of policy-making, coalition parties/partners tend to rely more on party secretariats.<sup>92</sup> It is true that there were too many political nominees and obviously no direct correlation between professional results and career promotion. The OECD survey in 2009 confirms that less than a quarter of respondents believed that individual effort leads to promotion in the civil service in Slovakia (Meyer-Sahling, 2009: 36-37). Slovakia ranked last in this dimension among all the new EU member states. Seemingly political connections were deemed more important for developing a career in the civil service, according to 59% of respondents.

Indeed, Eurobarometer No. 74 in 2010 confirmed the low level of trust in the judiciary and legal system among Slovaks (about one third of respondents exhibited trust and two thirds distrust in the judiciary and legal system). Other research carried out in 2010 suggested that the courts are seen as the most corrupt institution in Slovakia (45% of the interviewees held such an opinion) (Šípoš, 2010c). Finally, the survey from September-October 2011 by Mesežnikov and Gyárfašová (2011) suggested that only a quarter of respondents fully or somewhat trust the judiciary, while 70% held the opposite opinion.

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<sup>92</sup> There was no clear source for this claim. Our research and experience, as well as opinions of other experts, indicate that most likely the contrary is true. E-mail from Assoc. Prof. M. Beblavý, Comenius University, 23 November 2011 (beblavy@governance.sk ), e-mail from Assoc. Prof. L. Kopeček, Masaryk University, 22 November 2011 (kopecek@fss.muni.cz), e-mail from Dr J. Marušiak, Slovak Academy of Sciences, 22 November 2011, (Juraj.Marusiak@savba.sk ), Assoc., Prof. E. Sičáková-Beblavá, 1 December 2011 (ema@transparency.sk). Assoc. Prof. K. Staroňová from the Institute of Public Policy and Economics at Comenius University declined to comment on this claim (e-mail to K. Klima from 28 November 2011) (staronova@governance.sk).

All these sociological findings help to explain the particularly deep problems in the legal and judicial system, the lack of a proper media policy, the sometimes questionable behavior, from a professional-ethical perspective, of journalists, and the intellectual and communication difficulties in the implementation and execution of private and public media regulation.

A natural solution to this unwelcome state of affairs seems to be developing which is closely related to the role of the media. Repeated surveys in 2004-2010 confirm that Slovaks have above average trust in radio broadcast, the Internet and the written press. There is also a relatively high trust in television broadcast in Slovakia (Eurobarometer No. 62, No. 74). Indeed, the study by Šípoš (2010c) also suggests that the media are seen as the least corrupt institution in Slovakia, and at the same time the Slovak media were seen comparatively as the least corrupt among V-4 countries (Czech Republic, Hungary, Poland and Slovakia). These data again suggest the important role of the media in the Slovak political and social system.

Theoretically, the media can either contribute to an even more negative state of anomie in a society, or improve the state of social and political affairs. The data from *International Social Survey Programme 2004: Citizenship* suggest that 10% of citizens contacted the media in order to help them to solve some social or political issues, while political participation of Slovaks in general was the second highest among a selected set of Eastern European countries. There is thus promising potential for civic activism with the help of the media. Significantly, Slovakia was one of only two countries in the study which showed a comparable level of political activities of its citizens to France or United Kingdom. This is true both in terms of the scope of using various tools for political activism but also in terms of activism of individual citizens (Vrábliková, 2009: 879-881). Furthermore, Vrábliková suggests that there can be a close, although inverted, relationship between societal anomie and activism. In other words, low trust in political institutions can mobilize citizens towards higher participation - then there are emerging critical citizens. In the case of Slovakia, this activism is also facilitated by the horizontal division of powers among institutions in Slovakia.<sup>93</sup>

It is suggested here that the media are tacitly or explicitly expected by the citizens to facilitate the functioning of democracy in Slovakia. Media freedom and independence, guaranteed by proper media policy, is obviously a prerequisite in this respect. However, there is also a new danger that the more fragmented media audiences will be getting their information only from sources that reflect their own predilections and political views.

Finally, it is worth mentioning here a recent comparative sociological study that shows that long-term 'close EU supervision' helps improve standards in political rights and protection of civil liberties during the phase of accession negotiations but unfortunately withers later (Alber, Holtmann, Marquardt, 2011: 485). This could suggest a strong argument for setting and regularly checking certain EU-wide standards regarding freedom of speech and the press (with possible exceptions given to nation-states with respect to religious and cultural issues - following the ECtHR rulings). These 'external' standards should possibly further enable the free and independent functioning of the media in Slovakia, thus further facilitating its

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<sup>93</sup> Personal e-mail from Kateřina Vrábliková, vrabliko@fss.muni.cz 3 Sep 2011. See also Vrábliková, 2011.



important social role in Slovak society. These standards would also help to navigate international advisors who help candidate countries in media issues.

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## 9. List of interviews

Rudolf Adamčík, lawyer, legal representative of media houses Plus7dní, Trend, 19 August 2011, Bratislava, by Andrej Školkay

Anonymous person, expert, National Institute of Pedagogy, 21 July 2011, Bratislava, by Andrej Školkay

Michal Arpáš, chairperson of the Association of Publishers of Periodical Print Press, 19 July 2011, Bratislava, by Andrej Školkay

Lubo Banič, journalist, Csallóköz, 11 January 2011, Dunajská Streda, by Andrej Školkay

Eva Babitzová, editor in chief of private Radio Express, chair of Association of Independent Television and Radio Stations and member of IPI Slovakia, March 7, 2011, Bratislava, by Andrej Školkay

Eva Bačová, chancellor of regional branch of SSJ, former journalists at My Žilinské noviny, 28 April 2011, Žilina, by Andrej Školkay

Marek Benedikt, lawyer, legal representative of a media house, 19 April 2011, Bratislava, by Andrej Školkay

Michal Beňadik, chairman, Association of Publishers of Regional Press, January 2011, by Andrej Školkay

Tomáš Brna, journalist, TV Oravia, 28 February 2011, Námestovo, by Andrej Školkay

Csaba Czibula, City Television Dunajská Streda, independent producer, Chairman of Hungarian Union of TV Creators in Slovakia, 11 January 2011, Dunajská Streda, by Andrej Školkay

Pavol Dinka, member of the RVR, 31 August 2011, Bratislava, by Andrej Školkay

Milan Drobný, president, NGO eSlovensko, SSIC, 16 November 2011, telephone conversation, by Andrej Školkay

Richard Flimel, Chairperson of the Board, TV Joj, vice-chairman of the AIRTS, August 2011, Bratislava, by Andrej Školkay

Alex Fulmek, chairman of publishing house Petit Press, 7 February 2011, Bratislava, by Andrej Školkay

Ida Hanzelová, chairperson of the Administrative Law Collegium of the SC, 28 September 2011, Bratislava, by Andrej Školkay and Radoslav Kutaš

Katarína Javorčíková, judge, spokesperson For Open Justice, 14 September 2011, Bratislava, by Andrej Školkay

Milan Kaľavský, marketing director, Žilinský večerník, 28 April 2011, Žilina, by Andrej Školkay

Tomáš Kamenec, lawyer, 26 March 2011, Bratislava, by Andrej Školkay

Miroslav Kollár, chairperson of the Council of the RTVS, 9 February 2011, Bratislava, by Andrej Školkay

Henrich Krejča, journalist at TV Markíza, 11 April 2011, Bratislava, by Ivan Brada

Zuzana Krútka, former chairperson of the SSJ, 30 May 2011, Bratislava, by Andrej Školkaý

Peter Kubínyi, chairperson of the SSJ, 10 January 2011, Bratislava, by Andrej Školkaý

Luboš Kukliš, director of the Office of the Council for Broadcasting and Retransmission, 19 July 2011, Bratislava, by Andrej Školkaý

Zuzana Kupcová, lawyer, 20 September 2011, Bratislava, by Andrej Školkaý

Radoslav Kutaš, former officer of the RVR, former media law specialist at the MC, 5 April 2011, by Andrej Školkaý

Anna Lajmanová, editor-in-chief, bi-weekly Oravec, 28 February 2011, Tvrdošín, by Andrej Školkaý

Peter Laučík, deputy editor-in-chief, Podtatranské noviny, January 2011, by Andrej Školkaý

Viera Legerská, deputy editor in chief, Nový Život Turca, 2 May 2011, Martin, by Andrej Školkaý

Ivana Litvajová, former specialist in copyright law at the MC, 18 April 2011, Bratislava, by Andrej Školkaý

Igor Ľudma, director, Radio Tourist, 6 September 2011, Poprad, by Andrej Školkaý

Michal Mandzák, lawyer, August 5, 2011, Bratislava, by Andrej Školkaý

Branislav Máčaj, former head of Telecommunication Office, 10 March 2011, Trnava-Bratislava, by Andrej Školkaý

Stanislav Maruniak, TV VIO, 16 August 2011, Banská Štiavnica, by Andrej Školkaý

Zuzana Milá, editor in chief, TV Ružomberok, 2 May 2011, by Andrej Školkaý

Miloš Mistrík, chairperson of the Council for Broadcasting and Retransmission, 12 August 2011, Bratislava, by Andrej Školkaý

Zuzana Mistríková, former director general of Media and Audiovision Section at the MC (2002-2006), former chairperson of the Council for Advertisements (1996-2003, again since 2011), founding member of the Association of Independent Television and Radio Stations and its secretary (1993-2002), executive director of Media Institute (since 1998), 26 April 2011, Bratislava, by Andrej Školkaý

Andrej Miklánek, member of the Council of the RTVS, former founding head of STV3, 1 February 2011, Bratislava, by Andrej Školkaý

Ľudovít Morovič, editor-in-chief, weekly Dunatáj, 12 January 2011, Komárno, by Andrej Školkaý

Pavol Múdry, former head of private news agency SITA, chairman of International Press Institute – Slovakia, 23 March 2011, by Andrej Školkaý

Zuzana Sklenárová, programme director of TV Patriot, 28 April 2011, Žilina, by Andrej Školkaý

Zuzana Skokanová, marketing manager of TV Poprad, 6 September 2011, Poprad, by Andrej Školkaý

Nataša Sláviková, director general of the Media and Audiovision Section at the MC, 1 June 2011, Bratislava, by Andrej Školka

Juraj Spuchľák, director general, Radio Lumen, Banská Bystrica, 24 February 2011, by Andrej Školka

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