

The public broadcasting service in Europe

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La culture de service public de radiodiffusion is a publication by the European Audiovisual Observatory (EAO) produced in collaboration with the Institut du Droit Européen des Médias in Saarbrücken and the Institut du Droit de l'Information in Amsterdam. The Observatory, set up in 1992, aims to ensure transparency in the broadcasting sector in Europe and to respond to the information needs of sector professionals. With this focus, this publication provides an institutional view of the situation in which European public broadcasting media currently find themselves and how they have got there.

The EAO systemises its studies on the broadcasting sector into four working areas: cinema, television, video/DVD and the new media, all of them from two different perspectives: on the one hand, an economic and market-based approach with questions regarding funding and business management, and on the other a juridical and legal focus. In the case of this report, published in March 2007 and from a legal point of view, the juridical system and regulatory framework is studied of fourteen European countries¹ and it also examines the contribution made by the public media to the cultural diversity of each country.

The introduction to this publication is in two parts: firstly, a brief review of European legislation concerning public service television and radio. Secondly, a look at various theoretical perspectives that attempt to explain the origin, development and role played by media systems in different kinds of society. Susanne Nikoltchev is responsible for the first part, head of the department of juridical information of the EAO and editor/coordinator of this publication, reviewing the key resolutions, recommendations and statements regarding some of the features that the

European Council considers should characterise public broadcasting. By means of the Committee of Ministers and the Parliamentary Assembly (two Council of Europe institutions), attempts have been made to determine the cultural dimension of European broadcasting, its mission and obligations as a public service. At the same time, specific goals have also been set, such as the obligation to provide pluralist, innovative and varied programming, founded on ethical standards and of high quality that contributes to cultural diversity. Moreover, the importance is noted of consolidating its political, educational and cultural role in society and its contribution to diversity, given the danger of uniformity supposed by broadcasting technology in general.

On the other hand, both the Committee of Ministers and the Parliamentary Assembly have promoted transparency and editorial independence of public media from any kind of political or economic influence; this need for independence and absence of political meddling refers equally to the authorities regulating the sector that may exist in each country, as noted in the Prague Resolution of 1996 and in the 1506 Recommendation of 2001, to give some examples. The Committee of Ministers, by means of Recommendation no. R (96) 10 with reference to the guarantee of independence of public broadcasting and adopted in September 1996, gives directives aimed specifically at state legislators and regulating bodies, underlining the importance of its role when guaranteeing the independence and institutional autonomy of public broadcasting.

In addition to the recommendations and resolutions of the Council of Europe, the European Union also points out the importance of public broadcasting regarding the democratic, social and cultural needs of each country and does so via the protocol on the public broadcasting system of the member states published in the Treaty of Amsterdam, signed in 1997, modifying the Treaty of the European Union, the constitutive treaties of the European communities and certain related documents.

Before looking at the particular cases of each country, Karol Jakubowicz, doctor and former director of the Depart-

¹ Germany, Bulgaria, Denmark, Spain, Finland, France, Hungary, Italy, Lithuania, Netherlands, Poland, United Kingdom, Romania and Switzerland.

ment of Strategy and Analysis of the Polish National Broadcasting Council, reviews some of the perspectives from which different researchers have tackled communication systems, proposing the existence of "systemic parallelism", a situation in which the media systems reflect the systemic functions of the society in which they develop. Within this context, the media are not key social actors but rather instruments of other social forces. So, in the foundational process of public broadcasting, Jakubowicz identifies three models: in paternalistic and democratic-liberal models, the public media naturally result from the ideological evolution of society, with the consolidation of democracy and the development of political culture. The systemic model, on the other hand, reflects a larger political change, such as in the case of the Spanish transition to democracy after the dictatorship. This model involves a radical alteration in the institutional legal order that also affects the development of public broadcasting.

Having carried out this process of contextualisation, they look further into the particular case of the public broadcasting media in each country. Various authors analyse the juridical-collegial norms of this (mission, structure, procedures and financing) and the contribution made to the cultural diversity of the territory. Given the heterogeneous origin of the authors, as the reports are drawn up by lecturers, lawyers, workers from the different societies of state broadcasting, etc., there are contributions that emphasise the legal situation of public broadcasting and others that dedicate more time to explaining and evaluating the cultural dimension. Nonetheless, following the same analytical approach helps to identify the common elements and differences between countries.

With regard to the legal framework, it can be observed that each country has chosen different legal statuses to guarantee public service. In the United Kingdom, for example, the public function is commissioned directly to the BBC and has been regulated since this corporation started by means of a royal grant, while in France or Switzerland the respective constitutions give the tasks of public service to the broadcasting system as a whole, although there is also publicly owned radio and television.

In most cases, the mission of public broadcasting is regulated by specific laws that have undergone substantial amendment and changes in order to tackle the great trans-

formations affecting society and the sector that, in some cases, have been renovated over the last few years. In this situation are Denmark, Finland, Italy and Spain, which between 2004 and 2006 have put forward new specific laws. With regard to Spain, Alberto Pérez Gómez, assistant director at Red.es, explains the new elements in Act 17/2006, of 5 June, for state-owned radio and television, which are, among others, the definition of the dimensions this public service must have and its obligations. Moreover, the programme contract is established as a planning instrument for its work and states the objectives that must be achieved and the consequences should this not be the case.

The Act also points out issues regarding financing. Although a mixed system is continued (advertising and state financing), the obligation is specified of the Radio Televisión Española group to use the state-provided budget exclusively for public service activities, in addition to including accounting that clearly separates which part is invested in this service and which in commercial programming.

Financing is and has been the Achilles heel of state-owned media: all have public money as their main source of revenue, albeit with some particularities. The most usual situation is that a part of the general budget is allocated to public radio and television. In many cases, there is also financing via a fee charged for people using the service. Spain, Lithuania and Hungary are the only countries studied that have not established a duty for the public broadcasting service. The United Kingdom, on the other hand, stands out as the only country where public broadcasting funding is exclusively via a licence fee.

So, with exceptions such as the United Kingdom and Finland, which only admit public funding, the most frequent model in the fourteen states analysed is the mixed system. With regard to advertising, each country exercises more or less control on the minutes dedicated to it, such as Bulgaria, which limits this to four minutes per hour, or Hungary, which sets the limit at six. In the Spanish case, as pointed out in the report, RTVE has no specific obligation if we do not include compliance with the television without frontiers Directive, common to all channels irrespective of ownership.

Analysing the Spanish case, it should be noted that the only mention made of national public broadcasters is when talking about their debt and the demands imposed by

certain autonomous governments with regard to compliance with broadcasting quotas in the co-official language. Along these lines, in general all authors talk only about the state, only mentioning national television and radio channels with the idea of listing them. Germany is a case apart, which talks specifically of this, given its federal conception of public service since World War II; in addition to ZDF, which covers the whole territory, it also has nine broadcasters from the different *Länder* brought together in a management group called ARD.

The establishment of the rules of play that guarantee the public media's independence with regard to the state, their cultural contribution to encouraging pluralism, language diversity and the social projection of social values befitting democratic societies that serve to reinforce the role of citizenship, as well as the creation of regulatory broadcasting authorities are other points in common in all the television systems studied. Reading this report brings us to the conclusion that continuity in the public sector in general, as well as specific issues regarding their funding or public service function, far from being resolved, continue to be the object of political and social debate in the heart of each country.