



Yearbook of the Institute of East-Central Europe (Rocznik Instytutu Europy Środkowo-Wschodniej)

Publication details, including instructions for authors:
<http://www.iesw.lublin.pl/rocznik/index.php>

ISSN 1732-1395

The Institutional Design of Audiovisual Media Regulators: Evidence from Central and Eastern Europe

Adriana Mutu^a

^a Abat Oliba CEU University Barcelona

Published online: 10 Dec 2018

To cite this article: Adriana Mutu, 'The Institutional Design of Audiovisual Media Regulators: Evidence from Central and Eastern Europe', *Yearbook of the Institute of East-Central Europe*, Vol. 16, No. 5, 2018, pp. 105-122.

Yearbook of the Institute of East-Central Europe (Rocznik Instytutu Europy Środkowo-Wschodniej) is a quarterly, published in Polish and in English, listed in the European Reference Index for the Humanities and Social Sciences (ERIH PLUS), Central and Eastern European Online Library (CEEOL), BazEkon and IC Journal Master List (Index Copernicus International). In the most recent Ministry of Science and Higher Education ranking of journals published on the Polish market the Yearbook of the Institute of East-Central Europe received one of the highest scores, i.e. 14 points.

Adriana Mutu

The Institutional Design of Audiovisual Media Regulators: Evidence from Central and Eastern Europe

Abstract: The role played by National Regulatory Authorities (NRAs) as key institutional actors in the governance of various sectors has attracted substantial scholarly interest. Much of the literature examines why governments allow the creation of independent regulatory authorities, and how these bodies retain their independence. In contrast to the rich literature on the regulation of utility sectors, the number of studies dealing with the audiovisual media sector is rather limited.

This study addresses this gap and provides an extensive comparative analysis of the institutional design of national media regulators in 12 Central and Eastern European (CEE) countries. It introduces a revised typology of media regulators, complementing current classifications, by answering two research questions: What are the main institutional characteristics of media regulators in CEE countries? To what extent do media watchdogs share similarities or display differences regarding the institutional setups? The analysis focuses on scrutinising the organisational design, funding, accountability mechanisms and regulatory competencies.

Keywords: CEE, comparative research, audiovisual media, regulation, institutional design

Introduction

On February 3, 2014, the European Commission (EC) formally established a new group of regulatory authorities to oversee audiovisual services. This group, 'The European Regulators Group for Audiovisual Media Services', is designed to foster closer and more regular cooperation between member states' regulatory bodies and the EC, and to advise the EC in implementing the EU's Audiovisual Media Services Directive (AVMSD). Members of the new group are the heads or

high-level representatives of national independent regulatory bodies in the field of audiovisual services. Strengthening cooperation between independent regulatory authorities in the broadcasting field is a recurring trend in recent policy recommendations. As seen in directives such as Directive 2010/12/EU¹, policy objectives emphasize EU coordination, especially in providing rules to shape technological developments, creating a level playing field for emerging audiovisual media, preserving cultural diversity, protecting children and consumers, safeguarding media pluralism, combating racial and religious hatred, and guaranteeing the independence of national media regulators.

In the audiovisual field, independent regulatory authorities represent a key model of European media governance. The role played by national media regulatory authorities has attracted substantial scholarly interest. The literature of the last few decades offers explanations for why media regulation is important, with significant emphasis on the government legitimacy in regulating the audiovisual media sector. The term 'regulation' can be addressed from an interdisciplinary perspective, reflecting specific research agendas, and orientation towards different research methods². Communication scholars³ suggest that regulation points to the specific institutional mechanisms designed to help implementing media policies through *formal regulatory provisions* stated in laws, statutes, and constitutions. Political scientists define regulation as 'the promulgation of a set of rules, accompanied by some mechanism, typically a public agency, for monitoring and promoting compliance with those rules'⁴, or as 'the public administrative policing of a private activity with respect to a rule prescribed

- 1 See the European Council, Directive 2010/13/EU, Brussels, 10 March 2010, on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:095:0001:0024:EN:PDF.
- 2 J. Jordana and D. Levi-Faur (eds), *The Politics of Regulation: Institutions and Regulatory Reforms for the Age of Governance*, Cheltenham, UK and Northampton, MA, USA: Edward Elgar Publishing, 2004.
- 3 E. Psychogiopoulou and D. Anagnostou, 'Recasting the Contours of Media Policy In a Political Context: An Introduction', in: E. Psychogiopoulou (ed.), *Understanding Media Policies: A European Perspective*, Hampshire: Palgrave Macmillan, 2012, pp. 1-20.
- 4 R. Baldwin et al., *A Reader on Regulation*, Oxford: Oxford University Press, 1998, p. 3.

in the public interest'⁵. 'Popular public interests' preserved through media regulation relate to providing checks and balances mechanisms to keep institutions accountable, equitable competition and transparency concerning media ownership⁶.

Following the privatisation of former state-owned enterprises and the liberalisation of markets, a new type of regulatory authorities has been established in various sectors, including the media sector⁷. These bodies, known as National Regulatory Authorities (NRAs), are defined as 'non-majoritarian institutions, namely governmental entities that (a) possess and exercise some grant of specialised public authority, separate from that of other institutions, but (b) are neither directly elected by the people, nor directly managed by elected officials'⁸. In other analyses, it is pointed out that the NRAs are 'equipped with their own responsibilities, resources and, in organisational terms, are detached from ministries and thus not subject to the direct influence of politicians or government officials'⁹. Criteria for defining what a regulatory agency should be are put forward in prior research and it follows that an agency should be:

[situated] at arm's length (or further) from the main hierarchical 'spine' of central ministries/departments of state; carrying out public tasks (service provision, regulation, adjudication, certification) at a national level; staffed by public servants (not necessarily 'civil servants'); financed (in principle) by the state budget; subject to at least some public/administrative law procedures¹⁰.

Several classifications have concerned the institutional forms of NRAs in the liberalised sectors. For instance, a typology of regulators has been proposed based on four means of control: state-operated di-

5 B. M. Mitnick, *The Political Economy of Regulation: Creating, Designing, and Removing Regulatory Forms*, New York: Columbia University Press, 1980, p. 7.

6 A. Ginosar and O. Krispil, 'Broadcasting regulation and the public interest: Independent versus governmental agencies', *Journalism & Mass Communication Quarterly*, vol. 93, 2015, p. 946.

7 A. Mutu, 'The regulatory independence of audiovisual media regulators: A cross-national comparative analysis', *European Journal of Communication*, online first, 2018, p. 1.

8 M. Thatcher and A. S. Sweet, 'Theory and Practice of Delegation to Non-Majoritarian Institutions', *West European Politics*, vol. 25, no. 1, 2002, p. 2.

9 M. Tenbücken and V. Schneider, 'Divergent Convergence: Structures and Functions of National Regulatory Authorities in the Telecommunications Sector', in: Jordana and Levi-Faur (eds.), op. cit., p. 245.

10 C. Talbot, 'The Agency Idea. Sometimes Old, Sometimes New, Sometimes Borrowed, Sometimes Untrue', in: C. Pollitt and C. Talbot (eds), *Unbundled Government. A Critical Analysis of the Global Trend to Agencies, Quangos and Contractualisation*, London: Routledge, 2004, p. 5.

rectly by a government ministry, department or administrative agency; public corporation operated autonomously under state charter; public interest partnership operated by legally chartered private corporations with state stock interests, and private enterprise operated by private individuals or companies under governmental license with generally weak regulations¹¹. The previous categorisation is also exemplified in the work undertaken by other scholars who identified three broad categories of institutional models of NRAs for the telecommunications sector: industry-specific, sector-specific, and multi-sector regulators¹². Accordingly, in the industry-specific regulator typology, a separate agency for the telecommunications sector is established. In the sector-specific model, a regulator is in charge of a particular sector, while in the multi-sector regulator model, a single regulatory agency oversees a wide range of sectors.

Academic studies on media regulation and regulatory agencies for the audiovisual sector are scarce, in contrast to the vast scholarship investigating the institutional arrangements of National Regulatory Authorities for various utility sectors. Systematic overviews are limited, with the exception of the INDIREG study¹³ prepared for the European Commission, which identifies indicators for independence and efficient functioning of NRAs in 43 countries. Other studies include works exploring the relationship between media governance and independence of NRAs across Europe¹⁴. In recent years, scholars have examined the changing regulatory practices mostly focusing on particular regions such as the Nordic countries¹⁵, Western Europe¹⁶, and

- 11 A. Namurois, *Structure and Organization of Broadcasting in the Framework of Radiocommunications*, Geneva: European Broadcasting Union, 1972.
- 12 C. Spyrelli, 'Regulating the Regulators? An Assessment of Institutional Structures and Procedural Rules of National Regulatory Authorities', *International Journal of Communications Law and Policy*, vol. 8, 2003, p. 2.
- 13 Hans Bredow Institute, *Indicators for Independence and Efficient Functioning of Audiovisual Media Services Regulatory Bodies for the Purpose of Enforcing the Rules in the AVMS Directive (INDIREG)*, Brussels: European Commission, 2011.
- 14 W. Schulz and P. Valcke, K. Irion, *The Independence of the Media and its Regulatory Agencies. Shedding New Light on Formal and Actual Independence against the National Context*, Bristol, Chicago, IL: Intellect, 2013.
- 15 H. Nieminen, 'Public Interest in Media Policy: The Case of Finland', *Interactions: Studies in Communication & Culture*, vol. 1, no. 2, 2010, p. 233.
- 16 P. Humphreys, *Mass Media and Media Policy in Western Europe*, Manchester: Manchester University Press, 1996; A. Mutu, 'Media And Democracy. A Theoretical Design For Cross-Country

Southern Europe¹⁷. The institutional models of regulation developed after the collapse of the communist system in Central and Eastern Europe are recurrent in the prior studies¹⁸. In line with these contributions, other scholars have addressed the nexus between the institutional design of national media watchdogs and formal independence, providing empirical assessments of the cross-country variations in *de jure* independence of national media regulators¹⁹. It has been demonstrated that institutional differences among National Regulatory Authorities mirror different levels of formal independence, which varies across countries, and that media regulatory authorities in emerging democracies have higher levels of formal independence in comparison to NRAs in consolidated ones.

Building upon prior research findings, the objective of this paper is to introduce a revised typology of National Regulatory Authorities for the audiovisual sector in CEE countries, complementing current classifications. Several questions remain unanswered: What are the main institutional characteristics of national media regulators in emerging democracies? To what extent do national media regulators share similarities or display differences with regard to the institutional setups? To answer these interrelated research questions, I carry out

Comparative Research On Broadcasting Regulation', in: H. Sousa et al. (eds), *Media Policy and Regulation: Activating Voices, Illuminating Silences*, University of Minho, Communication and Society Research Centre (CECS), 2013, p. 11; A. Mutu and J. Botella Corral, 'Broadcasting Regulation in Europe. A Theoretical Design for Comparative Research', *Tripodos*, vol. 1, 2013, p. 13.

- 17 D. C. Hallin and S. Papathanassopoulou, 'Political Clientelism and the Media: Southern Europe and Latin America in Comparative Perspective', *Media, Culture & Society*, vol. 24, no. 2, 2002, p. 175.
- 18 See A. Balčytienė, 'Dependencies, Parallelisms, and Connections: Central and East European Media as Systems in Flux', *Media Transformations*, vol. 8, no. 48, 2012, p. 48; E. Balabanova, *Comparing the Incomparable in Western and Eastern Europe*, Aldershot, UK: Ashgate Publishing, Ltd., 2007. K. Jakubowicz, 'Normative Models of Media and Journalism and Broadcasting Regulation in Central and Eastern Europe', *International Journal of Communications Law and Policy*, vol. 2, 1998, p. 1; idem, 'Public Service Broadcasting in Post-Communist Countries: Finding the Right Place on the Map', in: K. Jakubowicz and M. Sükösd (eds), *Finding the Right Place on the Map: Central and Eastern European Media Change in a Global Perspective*, Bristol: Intellect Books, 2008, p. 101; idem, 'Post-communist Political Systems and Media Freedom and Independence', in: J. Downey and S. S. Mihelj (eds), *Central and Eastern European Media in Comparative Perspective: Politics, Economy and Culture*, England: Ashgate, 2012, p. 15; A. Mutu, 'The Role of Communication Research in Media Policy-Making: An Analysis of Media Independence in Europe', in: A. Popa and F. Ioncioaia (eds), *Proceedings of the 2nd CommScie International Conference "Challenges for Sciences and Society in Digital Era"*, CommScie School of Postdoctoral Studies and Research, Alexandru Ioan Cuza University of Iasi, Romania, 2015, p. 147.
- 19 Mutu, 'The Regulatory Independence', p. 1.

a cross-country comparative investigation on the institutional design of NRAs in 12 CEE countries. Employing a comparative research strategy, the extensive analysis scrutinises different setups of formal criteria with regard to the institutional, legal and regulatory framework of media regulatory agencies which were created up to and including the year 2014. The result of this comparative overview is to categorise and display standard groups of regulatory bodies, highlighting differences and similarities among regulators.

1. Methodological Considerations

The systematic analysis is focused on scrutinising different setups regarding the structural and organisational design, funding mechanisms, accountability, and the competencies of media regulatory agencies which were created up to and including the year 2014. The criteria for case sampling are drawn from the literature on regulatory agencies²⁰. The sample analysed includes the following National Media Regulatory Authorities:

Table 1. National Media Regulatory Authorities in CEE countries

	Countries	National Media Regulatory Authorities
1	Albania	Audiovisual Media Authority
2	Bulgaria	Council for Electronic Media
3	Czech Republic	Council for Radio and TV Broadcasting
4	Croatia	Agency for Electronic Media of the Republic of Croatia
5	Estonia	Ministry of Culture
6	Hungary	The National Media and Info-communications Authority
7	Latvia	National Electronic Media Council of Latvia
8	Lithuania	Radio and Television Commission of Lithuania
9	Poland	National Broadcasting Council
10	Romania	National Audiovisual Council
11	Slovenia	Post and Electronic Communication Agency
12	Slovakia	Council for Broadcasting and Retransmission

Source: Own elaboration.

²⁰ Talbot, *op. cit.*, p. 5.

Evidence was gathered and synthesised from multiple data sources. Primary data collection consisted in examining the country reports and annual reports of national media regulators available online on the website of the European Platform of Regulatory Authorities (EPRA). EPRA is a professional forum created for informal discussion and the exchange of views between regulatory authorities for the audiovisual sector in Europe, regarding various issues related to legal problems of audiovisual regulation. Updated online reports are publicly available in English. This research also builds on a secondary evaluation of existing material that has already been produced in the countries in question. Secondary data collection improved and validated the primary data collection through the analysis of archives, reports, statutes, constitution, and broadcasting laws. Analysis of secondary data included the scrutiny of the professional report INDIREG which provided a rich source of information on the general regulatory framework of the European states.

The major limitations of the study relate largely to the choice of data collection methods, which were subject to difficulties in identifying and accessing relevant documents, as well as language limitations. When conducting studies that rely on data being collected from different countries at different time periods, the timing of the data collection had to be considered since it may affect the quality of data and consequently the comparability of data collected. In response to this challenge, the data I gathered on the institutional design of media regulators reflects the situation at December 2014. Changes in the legislative framework that have occurred since December 2014 are not reflected in the data set and were excluded from the analysis. Language differences created an additional obstacle. Most of the information available on the websites of the media regulators was in English, and this facilitated the data collection. In cases where data on media regulators was not available in English, I used an extensive translation of the key vocabulary.

2. Results Snapshot: The Institutional Design of National Media Regulators

2.1. Standard models of institutional setups

Based on prior findings and following the classification of regulatory agencies put forward in the literature²¹, I have identified three broad categories of national media regulators: the single-sector regulator, the converged regulator, and the multi-sector regulator. The comparison proved the dominance of the single sector-regulator institutional model over the others. Most of the countries surveyed use the single-sector regulator approach. This model also includes organisational structures where the ministry is the regulator. This is the case for countries such as Albania, Bulgaria, Czech Republic, Croatia, Estonia, Latvia, Lithuania, Poland, Romania and Slovakia. Strong arguments in favour of single supervision are the exclusive focus on the technical challenges of a single sector, and the expertise of the staff. Opponents of the single-sector regulators argue that fundamental disadvantages are the staffing reluctant to adapt to new technological challenges, the risk of capture, the cost of regulation, the overlap of tasks and responsibilities, and the institutional rigidity.

In the case of Hungary, the challenges raised by convergence have led the country to move away from single-sector regulator and evolve towards a converged regulator, thus merging agencies in charge of the various aspects of the audiovisual sector. The converged regulator model is based on merging regulatory agencies responsible for telecommunications, information technology, broadcasting, and postal services under the authority of a single entity²². The convergent structure of the regulatory framework can be seen in the various tasks undertaken by the regulatory bodies. Convergent media regulators share either complementary or unrelated powers, with varying levels of competencies over the sectors. As listed in the ICT Regulation Toolkit developed in cooperation with the International Telecommunication Union (ITU), the key advantages of converged regulators are: avoiding duplication of functions and costs of regulation, downsiz-

²¹ Spyrelli, *op. cit.*, p. 1.

²² *ICT Regulation Toolkit 2006*, <http://www.ictregulationtoolkit.org/6> [2018-06-11].

ing the overlap between various sectors, and the internal institutional flexibility. On the contrary, key disadvantages are the loss of transparency, the decreased level of accessibility to the consumer, and delays in the adoption of policies caused by long negotiation processes due to sectors' divergent agendas. In Hungary, the National Media and Infocommunications Authority was established in July 2010 as the country's new regulator responsible for overseeing all sectors of the media, telecommunications and postal services. It replaced Hungary's two former regulatory agencies—the National Radio and Television Commission, the media regulator, and the National Communications Authority, the telecommunications regulator—with a single, convergent body to manage all media sectors and areas of media regulation.

Multi-sector regulators oversee multiple industry sectors with common economic and legal characteristics (i.e. telecommunications, water, energy, and transportation). Spain and Slovenia are the only two countries in Europe to establish multi-sector national media regulators. Among the arguments in favor of this institutional model are the staffing expertise and the knowledge in relation to the growing convergence between audiovisual and other sectors, the need for economies of scale to effectively regulate the different infrastructure industries and sectors, and the diminished political influence on the decision-making process. However, opponents advanced criticism regarding the disproportionate share of the costs of regulation, the risk of capture by politicians or dominant players, the greater complexity in establishing legal frameworks including the independence, as well as potential delays in instituting reforms²³. In Slovenia, the Agency for Communication Networks and Services is an independent body that regulates and supervises the electronic communications market, manages and supervises the radio frequency spectrum, performs tasks in the field of television broadcasting, and regulates and supervises the postal and railway service markets. It was established at end of January 2014, replacing the former regulator, the Agency for Post and Electronic Communication, which had competencies only in regulating telecommunications, broadcasting and postal services.

23 Ibid.

2.2. Legal status, institutional independence and regulatory competencies

In most countries surveyed, separate legal entities have been set up. Independence is implicitly or explicitly recognised as a value in the legal framework. As of 2014, NRAs existed as separate legal entities in Albania, Bulgaria, Czech Republic, Croatia, Latvia, Lithuania, Poland, Romania and Slovakia. The regulator in Slovenia, the Broadcasting Council, was set up as an independent expert body within the Agency for Communication Networks and Services. In Estonia, the public service broadcasts are regulated by the Public Broadcasting Council. Regulatory supervision of commercial media is carried out by the Media and Copyright Department in the Ministry of Culture. The Department does not function as a separate legal entity. Independence is not recognised as a value in the legal framework. The comparative analysis has shown that the prevailing regulatory model is the independent media authority specialised both in the regulation of both public service and commercial broadcasting. From the countries surveyed, only Estonia does not follow this standard model.

In general terms, audiovisual media regulators are in charge of rule-making, licensing, monitoring, imposing sanctions, organising and coordinating the broadcasting sector. In many countries, powers derive from the general broadcasting legislation and/or the constitution. National media regulators in the majority of the countries surveyed do not have general policy-setting powers, except for regulators in Albania, Croatia, Latvia, Romania, Slovakia. General policy implementing powers cover supervision and monitoring of compliance with rules on quotas, defining licensing criteria, advertising, sponsorship, and protection of minors. Media regulators in all countries surveyed have policy-implementing powers, except for Estonia, where this power is exercised by both the regulator and the Ministry of Culture.

2.3. Institutional organisation

Drawing upon the classification provided by the INDIREG Report²⁴, I have identified two models of leadership organisation: the collegial body, i.e. a board or commission composed of multiple members; and

24 Hans Bredow Institute, *op. cit.*, 2011.

the single individual structure, i.e. a chairperson or president. Variations of each model are in use across Europe. Based on the available data, the comparison showed significant differences among countries. The regulatory authorities are headed by a collegial body which partly consists of experts, representatives of civil society, and industry in the following countries: Albania, Bulgaria, Czech Republic, Croatia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia. Single individual regulators are headed by a CEO, president or director general who oversees all policy, management, and administrative activities of the regulatory authority. Estonia and Slovenia are the only countries where the regulatory body is governed by an individual.

Various models on the appointment process exist. In some countries, the appointment stage is preceded by a nomination stage. The appointing authority can be the executive body (Slovenia), the parliament (Romania), or socially relevant or parliamentary groups (Poland). Departing from the categorisation provided by the INDIREG study, I have identified three standard models of appointment. These models are: models with a predominance of parliament; models involving both parliament and the executive, and finally, models involving civil society and/or relevant professional organisations. The four models of appointment procedure are presented in Table 2.

Table 2. Appointment procedure: with nomination stage

Predominance of Parliament	Parliament & Executive	Civil society & Professional Organisations
Nomination by political parties and appointment by parliament: the Czech Republic Nomination by a parliamentary committee or by a minimum number of members of parliament and appointment by parliament: Estonia, Latvia, Albania, Poland	Nomination by the parliament chambers, the government and the president and appointment by the parliament: Romania Nomination by the executive and appointment by parliament: Croatia	Nomination by civil society, political parties, professional associations, and appointment by parliament and/or president: Bulgaria, Hungary, Albania, Slovakia Nomination by government committees and appointment by president, parliament and professional organisations: Lithuania

Source: Adapted from Hans Bredow Institute, *Indicators for Independence and Efficient Functioning of Audiovisual Media Services Regulatory Bodies for the Purpose of Enforcing the Rules in the AVMS Directive (INDIREG)*, Brussels, European Commission, 2011.

Regarding the term of office of the board members of the NRAs, this ranges between two and seven years, and does not coincide with the election cycle except for Albania, Estonia, Lithuania, and Slovenia. Renewal is possible without limitation in Estonia, but it is not allowed

in Poland. Board members must have professional qualifications and expertise in Albania, Bulgaria, and Hungary, while special qualifications and expertise are not requirements in the Czech Republic, Latvia, Lithuania, Romania, and Slovakia. To prevent against conflicts of interests at the appointment or during the appointment stage, rules addressing incompatibilities with government, parliament, political parties and industry have been imposed in the majority of countries surveyed. Exceptions are Albania, Czech Republic, Lithuania, Poland, and Romania. Specific rules limiting the possibility of dismissal of the board members exist in the majority of countries, except for Estonia, and refer to repeated absence; incompatibility with other positions; criminal prosecution/sentence; prolonged illness/disability; violation of the law; leaving the organisation or group that the member in question is representing and providing incorrect information at the appointment stage²⁵.

2.4. Financial resources and accountability mechanisms

The most common funding model is the state budget (including in Bulgaria, Czech Republic, Estonia, Poland, Romania, Slovakia). In Albania, Latvia and Lithuania the NRAs' budgets are supplemented by mixed sources, which include revenues from fees for issue and renewal of licenses/authorisations, revenues from administrative fees for the processing of applications, revenues from tariffs for broadcasting services set in the fiscal laws (in its role as tax agent), and funds from the state budget. Media regulators in three countries (Croatia, Hungary, Slovenia) rely solely on industry fees, spectrum fees, licence fees, and fines. The budget is first proposed by the government and adopted following the approval of parliament in countries where the funding comes from the state budget. Budgets of national media regulators are only subject to approval by the government in Albania and Slovenia. The budget is subject to approval by parliament in Bulgaria, Estonia, Hungary, Poland and Romania. In most of the countries where the budget of the NRA is part of the overall state budget, the budget is proposed by the Government and subsequently approved by Parliament. For instance, in Bulgaria, the NRA submits its draft budget to

25 Ibid.

the Ministry of Finance for review and approval, and then sends it to Parliament. In Slovakia, the budget is proposed by the Finance Minister, and requires formal approval from Parliament.

Accountability mechanisms, auditing requirements, court-appeal possibilities, and the means of procedural legitimacy are among the key elements of regulators' checks and balances, as stated in the INDI-REG study. The audiovisual media regulators are formally accountable to Parliament in Albania, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Romania, Slovakia. The audiovisual regulator in Slovenia is formally accountable to Government, while in Poland the NRA is accountable to both Parliament and Government. Accountability takes the form of an annual report that includes information on the regulator's activities and finances. External performance auditing is not required in Croatia, Czech Republic, Lithuania, Poland, Slovakia, and Slovenia. The audit usually takes place annually. Power to overturn/instruct is held by Supreme Courts in Croatia, Hungary, Lithuania, Latvia, Poland, Slovenia, and Slovakia. Public consultations practices vary across countries. As identified in the INDIREG study, public consultation is required by law in Hungary, Latvia, Romania, and Slovenia. No such requirements exist in the Czech Republic, Estonia, Lithuania, Poland, Slovakia. The minutes, the agendas and the decisions taken in the board meetings are not usually published, except for media regulators in Bulgaria, Croatia, Czech Republic (minutes only), Estonia (not all decisions), Hungary, Latvia (agendas only), Lithuania, Romania, Slovakia.

3. Case study: the Polish National Media Regulator

The National Broadcasting Council (Krajowa Rada Radiofonii i Telewizji – KRRiT) is the key regulatory authority in charge of overseeing the Polish audiovisual media sector. This institution is 'recognized as a constitutional body' with competencies established in the Broadcasting Law, with the mission 'to protect freedom of expression, right to information and the public interest in broadcasting'²⁶.

²⁶ The Constitution of Poland of 2 April 1997, as quoted in M. Wasicka and A. Mickiewicz, 'Politicisation of the Polish media or mediatisation of Polish politics? Where the world of the media and

The regulator receives funding from the state budget, through the collection of license fees and commercial advertising. The board of the National Council is composed of five members and the term of office is fixed for six years, without the possibility of reappointment. The rules of procedure for appointing the head and board members of the NRA are adopted by the Lower House of the Polish Parliament. Dismissal of board members is possible, as stated in the Art. 12 (4) of the Broadcasting Act adopted by the Polish Parliament on December 1992: 'In case of rejection of the Council's annual report by both the Sejm and the Senate, the term of office of all the members of the National Council shall expire within 14 days from the date of the resolution to this effect. However, the National Council's term of office shall not expire unless so approved by the President of the Republic of Poland' (EPRA country report, 2017). Criteria for dismissal are: resignation of board members, health issues, legal issues related to criminal offences, submission of false lustration statements, or committing breaches of the Broadcasting Act. The competences of the Polish national media regulator include the following: the supervision of private and public broadcasters, granting licenses, allocation of frequencies, handling complaints, programming, sanctioning powers such as issue warnings, imposing fines, and revoking licenses.

Conclusion

Different models of NRAs for broadcasting have been established in European countries. Indexing their main features, emphasising the differences between them, and comparing the outcome in decision-making processes add important new data for measuring the performance of regulatory institutions. In this paper I have provided a systematic revision of current typologies of NRAs for the audiovisual sector, answering two research questions which concerned the particularities of institutional configurations of national media regulators. The cross-country comparative analysis focused on the institutional setups of formal criteria regarding the institutional, legal and regulatory frameworks of state media regulatory authorities.

The analysis revealed three major models of institutional design of NRAs: the single-sector regulator, the converged regulator, and the multi-sector regulator. Three standard models of NRAs were identified with regard to the requirements for independence. Regulators function as either legal separate entities, or legal separate entities subordinated to a ministry, or as units integrated within the ministry with no legal separate status. Independence can be implicitly or explicitly recognised as a value. The prevailing institutional model is the independent regulator specialised in both public system broadcasting and commercial broadcasting. The highest decision-making organ of the regulatory body is either a board or an individual. Various models of appointment exist. Funding derives from the state budget, mixed sources, or from industry fees. Most of the regulators are accountable to Parliament. NRAs do have general policy implementing functions.

Departing from this study, further analyses could be carried out on the data set for the institutional settings of national media regulators introduced in this study in order to improve or refine the major findings. Possible explanations for the similarities and differences in institutional design choices of media regulators could be argued based on the concept of path dependency in historical institutionalism. Case studies on the political and administrative contexts could provide interesting avenues for explaining variations across countries or sectors. Further research is also needed to evaluate the extent to which NRAs use European networks of regulators to justify and legitimise independence. The EC's establishment of the new group of regulatory authorities for broadcasting gives us the opportunity to explore this issue, contrasting national and European norms in an attempt to explain how transnational networks affect the relationships between regulators, national governments and European institutions.

Acknowledgements

This article draws on the author's doctoral thesis titled 'The Formal Independence of National Media Regulatory Authorities: A Cross-Country Comparative Study' (2015) and supervised by Professor Joan Botella Corral from the Autonomous University of Barcelona. A previous version of the paper was presented at the first African Conference of the International Telecommunications Society (ITS) "ICT

Infrastructures, Applications and Policies” organized in Accra, Ghana, between 10-11 March 2016.

Funding

This work was supported by the Agency for Management of University and Research Grants (AGAUR), Government of Catalonia, Spain, under Grant FI-DGR 2012.

References

- Balabanova, E., *Comparing the Incomparable in Western and Eastern Europe*, Aldershot, UK: Ashgate Publishing, Ltd., 2007.
- Balčytienė, A., ‘Dependencies, Parallelisms, and Connections: Central and East European Media as Systems in Flux’, *Media Transformations*, vol. 8, no. 48, 2012, pp. 48-70.
- Baldwin, R. and C. Scott, C. Hood, *A Reader on Regulation*, Oxford: Oxford University Press, 1998.
- European Council, Directive 2010/13/EU, Brussels, 10 March 2010, eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:095:0001:0024:EN:PDF.
- Ginosar, A. and O. Krispil, ‘Broadcasting regulation and the public interest: Independent versus governmental agencies’, *Journalism & Mass Communication Quarterly*, vol. 93, 2015, pp. 946-966.
- Hallin, D. C. and S. Papathanassopoulos, ‘Political Clientelism and the Media: Southern Europe and Latin America in Comparative Perspective’, *Media, Culture & Society*, vol. 24, no. 2, 2002, pp. 175-195.
- Hans Bredow Institute, *Indicators for Independence and Efficient Functioning of Audiovisual Media Services Regulatory Bodies for the Purpose of Enforcing the Rules in the AVMS Directive (INDIREG)*, Brussels: European Commission, 2011.
- Humphreys, P., *Mass Media and Media Policy in Western Europe*, Manchester: Manchester University Press, 1996.
- ICT Regulation Toolkit 2016*, <http://www.ictregulationtoolkit.org/6>.
- Jakubowicz, K., ‘Normative Models of Media and Journalism and Broadcasting Regulation in Central and Eastern Europe’, *International Journal of Communications Law and Policy*, vol. 2, 1998, pp. 1-31.
- Jakubowicz, K., ‘Post-communist Political Systems and Media Freedom and Independence’, in: J. Downey and S. S. Mihelj (eds), *Central and Eastern European Media in Comparative Perspective: Politics, Economy and Culture*, England: Ashgate, 2012, pp. 15-40.
- Jakubowicz, K., ‘Public Service Broadcasting in Post-Communist Countries: Finding the Right Place on the Map’, in: K. Jakubowicz and M. Sükösd (eds),

- Finding the Right Place on the Map: Central and Eastern European Media Change in a Global Perspective*, Bristol: Intellect Books, 2008, pp. 101-124.
- Jordana, J. and D. Levi-Faur (eds), *The Politics of Regulation: Institutions and Regulatory Reforms for the Age of Governance*, Cheltenham, UK and Northampton, MA, USA: Edward Elgar Publishing, 2004.
- Mitnick, B. M., *The Political Economy of Regulation: Creating, Designing, and Removing Regulatory Forms*, New York: Columbia University Press, 1980.
- Mutu, A., 'Media And Democracy. A Theoretical Design For Cross-Country Comparative Research On Broadcasting Regulation', in: H. Sousa et al. (eds), *Media Policy and Regulation: Activating Voices, Illuminating Silences*, University of Minho, Communication and Society Research Centre (CECS), 2013, pp. 11-33.
- Mutu, A., 'The regulatory independence of audiovisual media regulators: A cross-national comparative analysis', *European Journal of Communication*, online first, 2018, pp.1-20, <https://doi.org/10.1177/0267323118790153>.
- Mutu, A., 'The Role of Communication Research in Media Policy-Making: An Analysis of Media Independence in Europe', in: A. Popa and F. Ioncioaia (eds), *Proceedings of the 2nd CommScie International Conference "Challenges for Sciences and Society in Digital Era"*, CommScie School of Postdoctoral Studies and Research, Alexandru Ioan Cuza University of Iasi, Romania, 2015, pp. 147-149.
- Mutu, A. and J. Botella Corral, 'Broadcasting Regulation in Europe. A Theoretical Design for Comparative Research', *Trípodos*, vol. 1, no. 32, 2013, pp. 13-28.
- Namurois, A., *Structure and Organization of Broadcasting in the Framework of Radiocommunications*, Geneva: European Broadcasting Union, 1972.
- Nieminen, H., 'Towards Democratic Regulation of European Media and Communication', in: B. Klimkiewicz, *Media Freedom and Pluralism: Media Policy Challenges in the Enlarged Europe*, Budapest: Central European University Press, 2009, pp. 3-26.
- Psychogiopoulou, E. and D. Anagnostou, 'Recasting the Contours of Media Policy In a Political Context: An Introduction', in: E. Psychogiopoulou (ed.), *Understanding Media Policies: A European Perspective*, Hampshire: Palgrave Macmillan, 2012, pp. 1-20.
- Schulz W. and P. Valcke, K. Irion, *The Independence of the Media and its Regulatory Agencies. Shedding New Light on Formal and Actual Independence against the National Context*, Bristol, Chicago, IL: Intellect, 2013.
- Sousa, H. and W. Trützschler, J. Fidalgo, M. Lameiras (eds), *Media Regulators in Europe: A Cross-Country Comparative Analysis*, Braga: Communication and Society Research Centre (CECS), University of Minho, 2013, http://www.lasics.uminho.pt/ojs/index.php/cecs_ebooks/issue/view/118/showToc.
- Spyrelli, C., 'Regulating the Regulators? An Assessment of Institutional Structures and Procedural Rules of National Regulatory Authorities', *International Journal of Communications Law and Policy*, vol. 8, 2013, pp. 1-65.

- Talbot, C., 'The Agency Idea. Sometimes Old, Sometimes New, Sometimes Borrowed, Sometimes Untrue', in: C. Pollitt and C. Talbot (eds), *Unbundled Government. A Critical Analysis of the Global Trend to Agencies, Quangos and Contractualisation*, London: Routledge, 2004, pp. 3-20.
- Thatcher, M. and A. S. Sweet, 'Theory and Practice of Delegation to Non-Majoritarian Institutions', *West European Politics*, vol. 25, no. 1, 2002, pp. 1-22.
- Tenbücken, M. and V. Schneider, 'Divergent Convergence: Structures and Functions of National Regulatory Authorities in the Telecommunications Sector', in: J. Jordana and D. Levi-Faur (eds), *The Politics of Regulation: Institutions and Regulatory Reforms for the Age of Governance*, Cheltenham: Edward Elgar, 2004, pp. 245-272.
- Wasicka, M. and A. Mickiewicz, 'Politicisation of the Polish media or mediatisation of Polish politics? Where the world of the media and politics permeate', *Central European Political Studies*, no. 1, 2014, pp. 141-156.