

## Background information report

Media policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: 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 will investigate the configuration of media policies in the aforementioned countries and will examine 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, will be thoroughly discussed and analysed.

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## The case of Slovakia

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### 1. Introduction

The architects of the post-communist transformation in Central and Eastern Europe (CEE) did not see liberal democracy as a utopian concept. However, as one of the revolutionists, Adam Michnik, later admitted, there was one *utopian motif* after all: the *utopia of the west*.<sup>1</sup> After 1989, Slovakia started its democratic transition under these utopian circumstances as part of Czechoslovakia. Unlike its more successful counterparts, this first utopian stage was followed by some *rude awakenings*<sup>2</sup> (in 1993 and after 2006) and more putative *utopias* (1998). Slovakia suffered every imaginable growing pain of a new democracy (after 1989), as well as of a newly constituted state (1993). These perhaps unique circumstances make the Slovak case one of the most interesting democratic transitions in CEE, especially in the media sector.<sup>3</sup> As we shall demonstrate in this study, its media policy is no exception to this audacious claim.

Media policy changes and the roles of the mass media in Slovakia were incongruous – particularly in the case of public service media. Two generations had never experienced the three most important features of the new social order: liberal democracy, a market economy and a free media. This had been a major contributing factor to the persistent lack of political consensus concerning the financial and political independence of the public media from the governing political parties. Consequently, suspicious – and indeed, confrontational – attitudes of some Slovak politicians towards the criticism of the government in the media were not anomalous (especially in the years 1992-1998 and 2006-2010). Formally promised and legally guaranteed independence of the public service media has *de facto* never been accomplished. The Slovak public at large, however, accepted the watchdog role of journalists already by the mid 1990s.<sup>4</sup>

Media policy development in Slovakia was also affected by the size of the country and the composition of its inhabitants. Slovakia's population is only 5,4 million, of which, up to 20% are estimated to be minorities. The two largest minorities are Hungarians (500,000) and Roma (estimated 350,000 to 400,000). While members of both minorities typically understand the Slovak language, most do not read nor buy Slovak

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<sup>1</sup> A. Michnik, "The rebirth of civil society", public lecture at the LSE as part of the Ideas of 1989, Public lecture series (1999), available at: [http://www.lse.ac.uk/Depts/global/Publications/PublicLectures/PL10\\_TheRebirthOfCivilSociety.pdf](http://www.lse.ac.uk/Depts/global/Publications/PublicLectures/PL10_TheRebirthOfCivilSociety.pdf) (last visited on 23/10/2010).

<sup>2</sup> K. Jakubowicz, *Rude awakening: Social and media change in Central and Eastern Europe* (2007).

<sup>3</sup> A. Školkaý, "Slovak government tightens its grip on the airwaves", 8 *Transition*, No. 72 (1996) 18, and A. Školkaý, "The role of the mass media in post-communist transition of Slovakia", in S. Szomolányi and J. Gould (eds), *Slovakia. Problems of democratic consolidation. The struggle for the rules of the game* (1997) 187.

<sup>4</sup> L. Šrámek, "Verejnost' a etická samoregulácia" [The public and ethical self-regulation], 36 *Otázky žurnalistiky* No. 1 (1994) 53, at p. 53-56.

language press.<sup>5</sup> Hungarians in Slovakia tend to watch foreign (Hungarian) broadcast media and buy newspapers and magazines in their native language.<sup>6</sup> Moreover, Slovaks usually also watch and read foreign Czech-language media.

All these particularities of media consumption place a clear limit on the advertising market size and its potential for growth. Small media markets employ fewer journalists, and opportunities for high-level professional education and self-development are also limited. Considering the relationship between journalism and politics, small countries with relatively closed cultures – such as Slovakia – run higher risks of nepotism and favouritism based on personal connections.

Slovaks' primary source of information has historically been through radio and television. People prefer to watch television, but significantly regard radio as being more trustworthy. For decades, the Public Service Radio (PSR) *Slovenský rozhlas* (SRo) has held the highest levels of public trust and, until the early 2000s, popularity.<sup>7</sup> More than 75% of Slovaks older than fourteen years listen to broadcast radio on a regular basis; it is the second most popular medium after television and has played a vital role in politics and cultural life in Slovakia. Numerous public opinion surveys show that throughout the 1990s, as well as in the early 2000s, Slovak radio was one of the most trusted institutions, compared not only to other media, but also to other institutions like armed forces, police, government, etc.<sup>8</sup>

The most popular medium in Slovakia is television. Programmes of the Slovak Public Service Broadcaster (PSB) *Slovenská televízia* (STV), as well as the news content of *Markíza*, the most influential private owned broadcast, used to be heavily influenced by politics. This continued throughout the late 1990s. Privately-owned electronic media are still critical of the government, but they have shifted from criticising policy substance to uncovering politicians' encounters and scandals. Since 2000, the influence of market forces on the daily work of the journalists has grown.<sup>9</sup> Already in 2001, Martin M. Šimečka, then editor-in-chief of the daily *Sme*, noticed a general shift from a political to an economic influence: "*The power of the media has moved from the world of politics to that of economics. Now the world of business threatens the independence of the media much more than any politician does*".<sup>10</sup>

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<sup>5</sup> The Roma minority members in Slovakia have been socially and educationally underserved for years. The average literacy of Roma is lower than the national averages, thus the consumption of printed media in this minority is almost non-existent.

<sup>6</sup> ENRI EAST 2008-2011, FP7-SSH collaborative research project (2008-2011), available at: <http://ff.ucm.sk/Slovensky/Katedry/politologia/doc/machacek/strucna%20sprava%20%20ENRI%20EAST.pdf> (last visited on 23/10/2010), at p. 6.

<sup>7</sup> "ÚVVM: Najviac dôverujeme hasičom, armáde a verejnoprávnym médiám" [IPOR: We trust firemen, the army and public service media most], slovakradio.sk, 2/06/2004, available at: <http://www.slovakradio.sk/inetportal/web/index.php?lang=1&stationID=5&page=showNews&id=16558> (last visited on 23/10/2010).

<sup>8</sup> See European Commission, Directorate General Communication, Eurobarometer 72, at: [http://ec.europa.eu/slovensko/news/eurobarometer\\_72\\_sk.htm](http://ec.europa.eu/slovensko/news/eurobarometer_72_sk.htm) (last visited on 23/10/2010).

<sup>9</sup> Z. Krútka, "Postavenie novinára v spoločnosti" [The position of the journalist in society], 49 *Otázky žurnalistiky* No. 3-4 (2006), at p. 236.

<sup>10</sup> M. M. Šimečka, "Ten years after: The case of Slovakia", in P. Bajomi-Lázár and I. Hegedűs (eds), *Media and politics* (2001), at p. 201.

Most recently, editors' decisions about news content have been largely shaped by market rules. Viewership preferences, considerable production costs, potential legal costs, political pressures and business interests do not favour investigative journalism.<sup>11</sup> In short, the long-term experience of private television networks has suggested that it is simply not profitable to produce such programmes. It is significant that in recent years and months, most investigative programmes have disappeared from the private networks. Watchdog journalism has become the almost exclusive domain of a few mainstream broadsheet newspapers and weeklies. While investigative programmes by the PSB could balance the entertainment focus of the private television networks, because the PSB is informally controlled by the government, it has not been courageous enough to showcase scandalous cases involving the governing political parties and politicians. Political investigative journalism by the PSB has usually been supported by superintendents only where opposition political parties were concerned. The most scandalous affairs of the governing political parties gained only minimal coverage, especially in the years 2006-2010. There was at least one publicly known case, when the PSB was hesitant to televise an investigative report. In October 2009, a reporter criticised the government's funding of a social enterprise in Bardejov.<sup>12</sup> The report was stopped through the personal intervention of the director just hours before the scheduled broadcast. The report finally aired later, but the employment contract of its author expired in January 2010 and has not been renewed. The PSB's regulatory council found no professional impropriety on the part of the author.<sup>13</sup>

The ownership of the media in Slovakia is mostly foreign, but domestic media are present in the market as well. Three important media are still co-financed by the state: the public service broadcaster *STV*, public service radio *SRO*, and the news agency *TASR*. Media owners are mostly joint-stock companies, independent from the government. Nevertheless, the distance between the business actors and the political sphere has been narrowing. The nature of this new relationship lies in economics rather than in politics.

The financial groups behind the media own diverse business assets and are keen to influence policy outcomes. In the past, this influence took quite overt forms. For a short period in 1997-1998, the founder and co-owner of the first independent television network in Slovakia (*Markíza*), Pavol Rusko, granted exclusively positive coverage to the opposition fighting against the authoritarian government of Vladimír Mečiar. In the early 2000s, the same owner of *Markíza* established a political party and used his network for the political promotion of this party. Rusko became the Minister of Economy, but his fragile party with no grassroots support survived only one parliamentary term (2002-2006). Even though Rusko did not have a broadcasting monopoly, this short development

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<sup>11</sup> J. Glovíčko, "Kauzy na obrazovkách skončili" [Causes on the screen are over], *SME*, 2/08/2010, at p. 5, and I. Nagyová and E. Žitňanský (eds), *Korupcia na Slovensku a jej spracovanie v médiách* [Corruption in Slovakia and its presentation in the media] (2001).

<sup>12</sup> This report criticised the use of EU funds for financing social enterprises, which were under the purview of the Ministry of the Labour and Social Welfare.

<sup>13</sup> "List Reportérov STV Rade Slovenskej televízie" [The letter of reporters of the Slovak Television to the Council of the STV], *medialne.sk*, 12/10/2009, available at: <http://medialne.etrend.sk/televizia-tlacove-spravy/list-reporterov-stv-rade-slovenskej-televizie-2.html> (last visited on 23/10/2010).

has been labelled by some Slovak scholars as *Italianisation*<sup>14</sup> or, perhaps even more precisely, *Berlusconisation* or *Gaullisation*.<sup>15</sup>

The relations between the government and journalists have been very diverse, depending on the preferred political style of the governing political parties. Slovakia became famous for its “media war” between 1993 and 1998, when the government of Vladimír Mečiar openly fought against most of the independent media and did not mind using the PSB as a government propaganda channel. The situation changed radically in 1998, when the reformist government of Mikuláš Dzurinda assumed power. Initially, the press almost exclusively supported the government. The popularity and the positive coverage of Dzurinda’s government gradually waned after the country entered the European Union (EU) in 2004. In recent years, government hostility towards the media returned under the auspices of the Prime Minister Robert Fico (2006-2010). Dissatisfied with its negative coverage and the rise of tabloid journalism, the government introduced strict regulation of the right to reply and the right to correction for print media. At the same time, the Fico government’s decision regarding the digital switchover practically closed the market for any new major broadcasting station. The new government of Iveta Radičová, who became Prime Minister in July 2010, promised some changes to Fico’s Press Law and radical changes in public service media financing. Critics of the Press Law say it establishes more obligations than it offers rights to the journalists. The vague formulations led requests for reply and corrections from hundreds of politicians and business people, most of them refused on formal grounds.

Slovakia has developed most of the necessary features of an established democratic media landscape, as defined by Juan Linz and Alfred Stepan.<sup>16</sup> This has happened in spite of insufficient media policy strategies from almost all governments in power since 1989. The media market has been privatised and deregulated, commercialised, initially de-monopolised and lately partly once more concentrated especially in the television sector. The depoliticisation of the selection of the public service media’s leadership and supervisory boards remains an issue to be resolved. Journalists themselves are facing a fight for higher editorial independence, better labour conditions, and consequently professionalisation promoted by their employers.

## **2. The media landscape in Slovakia**

Slovakia’s media market is relatively small and limited by advertising market size.

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<sup>14</sup> Slovenian communication Professor Slavko Splichal introduced this term. He defined the *Italianisation* as a rapid re-nationalisation of the media combined with a direct political control and monopoly over broadcasting. See S. Splichal, *Media beyond socialism: Theory and practice in East-Central Europe* (1994).

<sup>15</sup> A. Školkay, “Research on mass media in Central/Eastern Europe and Southern Europe” in M. Glowacki and B. Ostrowska-Dobek (eds), *Comparing media systems in Central Europe* (2008) 27.

<sup>16</sup> J. Linz and A. Stepan, *Problems of democratic transition and consolidation. Southern Europe, South America, and post-communist Europe* (1996).

## 2.1 The media market

The most popular medium is television with three main networks (including three channels of public service broadcasting, two major television channels with their two subsidiary channels with lower viewership owned by two independent owners), one news television, and a number of local (municipal) and regional stations.

There are about thirty radio broadcast channels, in addition to nine stations of public service radio, *Slovenský rozhlas*.

The print media landscape is represented by over 1,100 titles, but circulation and readership surveys confirm a long-term decline. Only about 55% of adults read the daily press and even fewer (52%) read weeklies on a regular basis.<sup>17</sup> According to another source, almost 28% of the population read printed newspapers and more than 14% read online newspapers.<sup>18</sup>

Online media are still limited to younger generations, with the Slovak online community preferring entertainment instead of democratic participation.

Untypically for such a small market, Slovakia has two newswire agencies (*TASR*, *SITA*).

The print media market is the most developed media segment in Slovakia. While there were many attempts to establish party (or partisan) daily newspapers in the past, today all dailies claim to be independent from the political parties. All major Slovak language newspapers have different (mostly foreign) owners and there is a relative ideological and content competition. Two tabloid papers are market leaders with a combined readership of about 32% of the adult population and four remaining regular newspaper titles share a 22% readership.<sup>19</sup> The most popular paper in Slovakia is the tabloid *Nový Čas* (New Time) with a daily circulation of between 135,000 and 150,000 copies. Almost one in every four adults in Slovakia reads this daily regularly, but its readership has significantly declined.<sup>20</sup> Its main focus is entertainment and sensationalism, not excluding politics. Its main competitor is one of the few surviving latecomers (founded in 2006), the tabloid *Plus Jeden Deň* (*Plus One Day*) with a circulation of approximately 60,000 copies. The third and fourth most popular newspapers are *Sme* (*WeAre*) and *Pravda* (*Truth*) with variable circulations between 50,000 and 55,000 copies and readerships of about 7-8 %. Their main difference is in

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<sup>17</sup> “Čítanosť tlače a sledovanosť televízií podľa prieskumu MML-TGI” [Print readership and television viewership according to MML-TGI survey], medialne.sk, 4/11/2009, available at: <http://medialne.etrend.sk/tlac-monitoring/citanost-tlace-a-sledovanost-televizii-podla-prieskumu-mml-tgi.html> (last visited on 23/10/2010).

<sup>18</sup> P. Rankov, “Slovensko a paradigmatické zmeny súvisiace s komunikáciou” [Slovakia and Paradigmatic Changes Related to Communication], 1 *Knižnica* (2009), available at: [http://www.snk.sk/swift\\_data/source/casopis\\_kniznica/2009/januar/03.pdf](http://www.snk.sk/swift_data/source/casopis_kniznica/2009/januar/03.pdf) (last visited on 23/10/2010) at p. 3-6.

<sup>19</sup> V. Polakovičová, “MML-TGI: Jeseň 2009 a jar 2010 sa niesli v znamení televízií”, [Autumn 2009 and spring 2010 were marked by televisions], StrategieONLINE, 28/05/2010, available at: <http://www.strategie.sk/sk/sedy/prieskumy/media/mml-tgi-jesen-2009-jar-2010-niesli-v-znameni-televizii.html> (last visited on 23/10/2010).

<sup>20</sup> See “Čítanosť tlače (MML + OMV)” [Readership of the Press (MML + OMV)], available at: [http://www.strategie.sk/sk/reklama/data/media/citanost\\_tlace/](http://www.strategie.sk/sk/reklama/data/media/citanost_tlace/) (last visited on 23/10/2010).

their ideological orientation. For almost twenty years, *Sme* has been a proud fighter for liberal democracy with fiscally conservative views. *Pravda*, the successor of its communist namesake, started as a social democratic paper before going through a mainstream family newspaper phase, only to become a leftist daily again in 2010.<sup>21</sup> Both *Sme* and *Pravda* have uncovered important political controversies and are considered leaders of watchdog journalism in Slovakia. The business daily *Hospodárske noviny* (Economy News) sells around 18,000 copies. It targets business and political elites and its readership is around 3%. Rather than covering political scandals, it provides political and business leaders with a platform for rational discussion and exchange. There are also special types of daily newspapers: the advertisement-only paper *Avízo* (10,000), the regional (East Slovakia) daily *Korzár* (23,000), the Hungarian-language daily *Új Szó* (23,000) and the sports daily *Šport* (est. 23,000).<sup>22</sup>

Slovakia has around thirty privately owned radio broadcasters and a network of public service radio (PSR) stations.<sup>23</sup> The Slovak PSR network has nine stations with the three newest broadcasting digitally only. In contrast to the past, most people listen to the privately owned radio stations. In the early 1990s, PSR broadcasting was an important agenda-setter and this still remains the most important function of radio broadcasting in Slovakia. The most popular radio station is *Rádio Express* (traffic updates and music) with 21-22% listenership, followed by the first PSR channel *Rádio Slovensko* with 17-18% of all listeners. *Fun Rádio* is in third place with 14-15%. The music station *Jemné Melódie* has a listenership of 7-8%, the PSR channel of regional reports *Rádio Regina* 6-7%, and *Rádio Europa 2* 5-6%.<sup>24</sup>

There are three major television broadcasting players in Slovakia, two of them in private hands and one a public service broadcaster *Slovenská televízia* (STV).<sup>25</sup> Privately held *Markíza* is the market leader with a 26-27% market share and about 60% viewership. It is trailed by another private broadcaster *Joj* with 18% market share and about 35-38% viewership. The first PSB channel *Jednotka* is third in the rankings (13% market share and 25% viewership), followed by the second PSB channel *Dvojka* (6,6% market share and 3,2% viewership).<sup>26</sup> One specialized TV outlet is the news television

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<sup>21</sup> G. Šipoš, “Pravda si zo svojich čitateľov robí dobrý deň”, [Pravda makes fun of its readers], Slovak Press Watch, 24/08/2010, available at: <http://spw.blog.sme.sk/c/239202/Pravda-si-zo-svojich-citatelov-robiodobry-den.html#ixzz0xbkeGW5V> (last visited on 2/10/2010), and T. Czwitkovics, “Denník sa konečne začal správať marketingovo a smeruje na 40-percentnú cieľovku. Tá sa pri stánkoch zatiaľ nezberia” [The daily has finally started to behave in a marketing way and it heads toward 40-percent target group. However, it does not gather at newsstands], medialne.sk, 10/09/2010, available at: <http://medialne.etrend.sk/tlac-clanky/ako-sa-zmenila-pravda.html> (last visited on 23/10/2010).

<sup>22</sup> StratégieONLINE, “Audit nákladov tlače” [Print costs audit], April 2010, available at: [http://www.strategie.sk/sk/reklama/data/media/audit\\_nakladov\\_tlace/](http://www.strategie.sk/sk/reklama/data/media/audit_nakladov_tlace/) (last visited on 23/10/2010).

<sup>23</sup> There were 48 licence holders for radio broadcast, including 15 for digital broadcast, at the end of 2009, but not all of them actually broadcasted. See Board for Broadcasting and Retransmission, “Správa o stave vysielania” [Report of the state of broadcasting], available at: <http://www.rada-rtv.sk/sk/spravy/?aktualitaId=1048> (last visited on 23/10/2010).

<sup>24</sup> StratégieONLINE, “Počúvanosť rádii (MML + OMV)” [Radio Listenership MML + OMV], available at: [http://www.strategie.sk/sk/reklama/data/media/pocuvanost\\_radii/](http://www.strategie.sk/sk/reklama/data/media/pocuvanost_radii/) (last visited on 23/10/2010).

<sup>25</sup> There were 149 licence holders for TV broadcast at the end of 2009, including 16 for digital broadcasting. See “Správa o stave vysielania”.

<sup>26</sup> Medialne.sk, “Sledovanosť TV (MML + OMV)” [TV Viewership MML + OMV], available at: [http://www.strategie.sk/sk/reklama/data/media/sledovanost\\_tv/](http://www.strategie.sk/sk/reklama/data/media/sledovanost_tv/) (last visited on 23/10/2010).

channel TA3 with a market share of only 2%. However, it plays an important role in shaping elite discourse and serves as a valuable source of breaking news in crisis situations.

In spite of many legislation and financing changes, Slovak PSB remains a politically contested terrain. In 1993-1998, it served as a propaganda channel for Vladimír Mečiar's government. During the next governments of Mikuláš Dzurinda (1998-2006), it was perhaps less critical than desired, but stayed far away from any governmental propaganda. It did not return to its propagandist past during Robert Fico's government (2006-2010), but it tried to ignore or to minimise the social and economic consequences of major government scandals. In addition Prime Minister Fico was granted far more airtime than his predecessors.<sup>27</sup>

Data about the broadcasting forms in Slovakia have undergone dynamic shifts recently. It is assumed, that satellite broadcasting (with 35% share) has been picking up and is now slightly ahead of the cable television (33%). About 18% of viewers use terrestrial (over-the-air) television broadcasting.<sup>28</sup> The first digital terrestrial multiplex started in Slovakia in December 2009. It includes most popular television stations and is available to 93% of the population<sup>29</sup>. There already started analogue broadcast switch-off in some regions of Slovakia.

Internet media usage is determined by lower penetration than in other countries in EU. In 2009, internet penetration was comparable to Bulgaria and Hungary, i.e. under 50% of population. Broadband penetration in Slovakia was similar to Bulgaria or Romania - around 10%.<sup>30</sup> The number of internet users however, has been growing steadily by 5-7% yearly since 2008. The newest data show that in 2010 almost 60% of the population used internet<sup>31</sup>, most of them at home<sup>32</sup>. Still, the internet gap is clear, considering that almost 30% of the population have never used Internet with internet

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<sup>27</sup> G. Šípoš, "Rybniček vs Nižňanský: za koho bola STV pred voľbami provládnejšia?" [Rybniček vs Nižňanský: Who made the Slovak Television more pro-governmental before elections?], Slovak Press Watch, 5/06/2010, available at: <http://spw.blog.sme.sk/c/231156/Rybniček-vs-Nizňanský-za-koho-bola-STV-pred-voľbami-provládnejšia.html#t2#ixzz0vXjhHtiW> (last visited on 23/10/2010).

<sup>28</sup> I. Krasko, "Satelit útočí na káblovku. Podľa prognóz Towercomu sa satelit tento rok stane rozšírenejším ako káblová TV" [Satellite attacks the cable TV. Towercome forecasts that satellite will become more widespread than the cable TV this year], Trend (2010), available at: <http://www.etrend.sk/trend-archiv/rok-2010/cislo-15/satelit-utoci-na-kablovku-2.html> (last visited on 23/10/2010).

<sup>29</sup> Ministry of Transport, Posts and Telecommunications, "Prvý multiplex v prevádzke", [The first multiplex in service], 8/01/2010, available at: <http://www.digimedia.sk/?IDe=68161> (last visited on 23/10/2010).

<sup>30</sup> P. Šebo, "Do you CEE? Internet v strednej a východnej Európe" [Internet in central and Eastern Europe], StratégieONLINE, 26/02/2010, available at: [http://www.strategie.sk/files/casopis/2010/februar/Strategie02\\_2010\\_35.pdf](http://www.strategie.sk/files/casopis/2010/februar/Strategie02_2010_35.pdf) (last visited on 23/10/2010).

<sup>31</sup> "Internetová populácia rastie, internet využívajú vyše 2 milióny Slovákov" [Internet population is growing; Internet has been used by more than two million Slovaks], Sme.sk, 9/05/2010, available at: <http://pocitace.sme.sk/c/5364624/internetova-populacia-rastie-internet-vyuzivaju-vyse-2-miliony-slovakov.html#ixzz0vpIJIQXU> (last visited on 23/10/2010).

<sup>32</sup> TNS SK, "Počet aktívnych používateľov internetu sa medziročne zvýšil" [The number of internet users has increased annually], 20/05/2010, available at: <http://www.itnews.sk/spravy/internet/2010-05-20/c133687-pocet-aktivnych-pouzivatelov-internetu-sa-medzirocne-zvysil?ref=rss> (last visited on 23/10/2010).

users being mostly younger people (18-39 years old) and people with higher levels of education.

The primary function of internet use in Slovakia seems to be information (primarily related to work) and entertainment. Less than a half of internet users are involved in chatting, blogging or online communities.<sup>33</sup> Approximately one third participate in major social networks. Internet played an important role in the informational campaign concerning the introduction of the Euro in 2008 and 2009. For 11% of the population, it was the most efficient source of Euro zone accession information and ranked as second in all media (after television).<sup>34</sup>

All daily newspapers and most magazines have their own internet websites. In general, online news media takes four different forms. First, the online-only news websites (*Aktualne.sk*); second, print media websites with similar but not identical content and separate editorial staff (*Sme* and *Sme.sk* since 1999, *Nový Čas* and *cas.sk*); and third, online news based mostly on already printed content (*Hospodárske noviny* and its *Hnonline.sk*). Finally, the daily newspaper *Pravda* allows access to its printed version online only after 9:30 a.m.

There is a slow but growing trend toward pay-per-read services for copyrighted content as well as for archives. Some print media have gone online only – for example the leftist weekly *Slovo* in July 2010. Most of the attempts to create online-only newspapers or cultural weeklies have suffered from a lack of advertising revenues and consequently ceased publication. However, there are two successful news websites with their own editorial staff (*aktualne.sk*, *aktuality.sk*). Both the public service news agency *TASR* and its privately held competitor *SITA* publish a limited selection of their news releases online.

All electronic media offer limited versions of their content online. Some of them have created specialized news-only websites (*Markíza* has *Tvnoviny.sk*) and most of them have chosen to grant online access to full-length versions of their programmes. They include mainly news and current affairs programmes (as a result of copyright).

The most successful online news portal is *Sme.sk*, established by the daily newspaper *Sme*. It ranks third among all internet portals and is the leader as far as news is concerned. In addition to its written content, *Sme.sk* introduced a video news section *Tv.sme.sk* and the website features many interactive tools to attract visitors. The most interesting of these is *zajtrajsie.sme.sk* which is a betting platform for predicting future news events. *Sme.sk* also features social bookmarking (*vybrali.sme.sk*) and blogging services (*blog.sme.sk*). The best readers' blog entries are occasionally published in the printed paper.

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<sup>33</sup> "Podľa prieskumu TNS aktívne využíva internet 53.7 % Slovákov," [According to the TNS survey the internet has been actively used by 53,7% of Slovaks], *itnews*, 31/03/2009, available at: <http://www.itnews.sk/spravy/prieskumy/2009-03-31/c80720-podla-prieskumu-tns-aktivne-vyuziva-internet-537-slovakov> (last visited on 23/10/2010).

<sup>34</sup> "Euro: Internet bol v infokampani dôležitejší než v iných štátoch" [Euro: The internet in information campaign was more important than in other countries], *Živé*, 4/05/2009, available at: <http://www.zive.sk/euro-internet-bol-v-infokampani-dolezitejsi-nez-v-inych-statoch/sc-4-a-282473/default.aspx> (last visited on 23/10/2010).

The second most popular news website is *Topky.sk*, originally co-founded by the market leader tabloid newspaper *Nový Čas*. Today, *Topky.sk* is a branch of the portal *Zoznam.sk*.<sup>35</sup> In third place is the online-only news website *Aktuality.sk*, a mixture of tabloid news with rather conservative commentaries. The top fifteen internet websites in Slovakia also include online news websites of major newspapers and television broadcasters such as *Pravda (Pravda.sk)*, *Markíza (Tvnoviny.sk)* and *Joj (Joj.sk)*.<sup>36</sup> In order to engage with its viewers, *TV Markíza* created a special section *Somreporter.sk* (I report), which allows its viewers to upload their news photos and videos for the use of TV news producers.

Slovakia has almost 1.5 million Facebook users, dominated (82%) by younger generations (16 – 34 years).<sup>37</sup> Only a few Slovak media have established a presence on Facebook. The leaders are *Sme* with more than 39,000 fans, and the television news programme *TV Noviny Markíza* with 31,000 fans.<sup>38</sup> The microblog website, *Twitter.com* has only 3,080 users in Slovakia<sup>39</sup> and the Slovak Twitter community has been growing at a much slower pace than the Facebook community. Similarly to the situation on Facebook, *Sme* and *TV Noviny Markíza* have gained the most Twitter followers.<sup>40</sup>

Rather than social networks, personal and institutional blogs seem to be of greater importance as far as democratic and racist/xenophobic discussion and civil society development are concerned.

Following its transformation, TASR made some of its content available online. Its financing, through subsidies from the Ministry of Culture, has been considered controversial and the new government has already undertaken to change the agency's status.

## 2.2 Journalists' background and education

The journalism profession in Slovakia was reborn after the fall of communism in 1989/1990. Political elites starting the democratic transition in Slovakia preferred a poetic transformation, i.e. they believed professionalism would develop from the ethics and veracity of the writers. There have never been formal requirements for the journalism profession and many of the most respected journalists did not study journalism or indeed humanities, but technical specialisations. The lack of regulation also opened the gates for lower professionalism standards, a trend typically connected to commercialisation. Today, it is not unusual to find high school graduates or first year journalism students writing for the mainstream media. More than a quarter of journalists do not have college

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<sup>35</sup> *Topky.sk* (also known as *Bleskovky.sk*) started as a joint venture of *Nový Čas* and the internet company *Zoznam.sk*. *Zoznam.sk* unilaterally ended the cooperation with *Nový Čas* in April 2008 and took over the popular news website.

<sup>36</sup> Mediaresearch and TNS, "Návštevnosť internetu" [Internet popularity], May 2010, available at: [http://www.strategie.sk/sk/reklama/data/media/navstevnost\\_internetu/](http://www.strategie.sk/sk/reklama/data/media/navstevnost_internetu/) (last visited on 23/10/2010).

<sup>37</sup> Facebook, "Statistics Slovakia", available at: <http://www.facebakers.com/countries-with-facebook/SK/> (last visited on 27/09/2010).

<sup>38</sup> As of 27 September 2010.

<sup>39</sup> According to the auditing webpage *SlovakiaTwitter.com*.

<sup>40</sup> As of 27 September 2010.

degree and in the group under thirty years old this figure is almost 40%.<sup>41</sup> The reason for hiring young and inexperienced writers has a clear monetary and (un)ethical basis: the salary costs of these journalists are lower than the salary expectations of professionals with relevant experience, and these young journalists are more willing to follow unethical orders from their superiors. Some observers suggest that these market pressures<sup>42</sup>, giving preference to lower levels of education and experience, are major contributors to the journalism controversies found in Slovakia.<sup>43</sup> Unfortunately, the expected levels of professionalism and ethics have never been achieved and this has made it much easier for various vested interests and lobby groups as well as public relations agencies to influence media output.<sup>44</sup>

Journalism education in Slovakia started off with one Department of Journalism at Comenius University in Bratislava, established in 1952. A wealth of new educational opportunities have arisen since 1989, but the quality of education for journalists has not improved, in fact the opposite has often been the case.<sup>45</sup>

*The Utopia* of democratic media development in Slovakia faced its first threat in 1993, when Slovakia became an independent country. Prime Minister Vladimír Mečiar wanted to use the media to “build the state and nation”. Criticism of the government was considered treasonous and unpatriotic, and inspired from abroad. The decimated press, which had only just started its professionalisation, was clearly divided on political lines and has never been reunited, despite journalistic supporters of national populism becoming marginalized. After 1998, the journalists’ enemy was gone and the process of professionalisation began, as did the second *utopia* in Slovakia. This lasted only about two years until it was forced out by the liberal market. Simply put, professionalisation was outrun by commercialisation. Decent progress has been made in subsequent years, but the profession is still far from being established and unified around a common set of journalistic standards. According to a survey of the non-governmental organisation Slovak Press Watch and its partners from 2008, almost 75% of Slovak journalists themselves claimed low professional levels and 56% of respondents noted low ethical levels among their colleagues.<sup>46</sup> In journalists’ own words, these two issues were the most important problems facing their profession.

The problems described above originate at least partially in market pressures. Summarized by Z. Krútka, the chair of the Slovak Syndicate of Journalists, less than one fifth of journalists are protected by any form of union contract. In addition, one third of

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<sup>41</sup> Krútka, “Postavenie novinára v spoločnosti”, p. 236.

<sup>42</sup> R. Sťahel, “Etika v médiách” [Ethics in media], 45 Otázky žurnalistiky No. 1-2 (2002) 108, at p. 108.

<sup>43</sup> A. Školkay, “Teória a prax žurnalistiky na Slovensku” [Theory and practice of journalism in Slovakia], 44 Otázky žurnalistiky No. 3-4 (2001), at p. 161.

<sup>44</sup> R. Sťahel, “Etika v médiách”, p. 109, and J. Glovičko, “Rybníček: Televíziu treba resuscitova” [Rybníček: The television must be resuscitated], SME, 27/07/2009, available at: <http://www.sme.sk/c/4949987/rybnicek-televiziu-treba-resuscitovat.html#ixzz0zmMQX3LI> (last visited on 23/10/2010).

<sup>45</sup> A. Školkay, “Chaos v textoch, chaos v hlavách” [Chaos in texts, chaos in heads], 16 Fórum No. 2 (2006), at p. 3 and 11.

<sup>46</sup> Slovak Press Watch et al., “Názory slovenských novinárov na vybrané otázky mediálneho prostredia” [Views of Slovak journalists on selected issues of the media environment] (2008), available at: <http://www.dbm.cz/pfile/2Vysledna%20sprava.pdf> (last visited on 23/10/2010).

journalists are formally freelancers, even though they actually work permanently for a specific outlet.<sup>47</sup> The total annual income of journalists is only slightly above the national average.<sup>48</sup> In the words of M. Kollár, director general of the newswire agency SITA: ‘*The journalists’ quality and the (in)ability to pay them appropriately, is the first and the key reason for (lack) of quality in wire agencies...*’<sup>49</sup>

The nature of politics and business requires the use of all available tools for maximizing political and business power respectively. As a consequence of the absence of professionalisation and the strong push for commercialisation, neither journalists in public service media nor those in the private media are sufficiently protected from these pressures.<sup>50</sup>

### 2.3 Media literacy and media status in society

Considering media literacy assessment, Slovakia fares at the threshold of ‘basic’ and ‘medium’ levels. It is not far from more developed countries like Slovenia or Poland, but it is fifth from the bottom among twenty-seven European Union countries.<sup>51</sup> The primary information source is television, followed by radio, print outlets and internet. In contrast to the first decade of democratic transition in Slovakia, modern media consumers choose passive roles and consume entertainment rather than analytical news. Mainly in the last six years, news content has shifted from substantive description to reporting focused on personalities, scandals and sensationalism. Numerous TV networks have introduced special news formats informing solely about crime (*Kriminoviny*) or showbusiness (*Prominoviny, Smotánka*).

Internet use in Slovakia is focused mostly on quick information gathering, communication and entertainment. There is only one webpage - *Azet.sk* – where the users spend on average more than twenty minutes. In other cases, the time does not exceed five to six minutes. Internet discussions are usually anonymous and thus emotionally laden and lacking sophistication.<sup>52</sup> *Aktualne.sk* features a blog section designed for political and social celebrities and *Trend* weekly features economists’ opinions on its *Blog.eTrend.sk*. The most popular platform available to all internet users is *Blog.Sme.sk* with over 12,000 individual blogs. Estimates suggest Slovakia has over 20,000 bloggers.<sup>53</sup>

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<sup>47</sup> This way the employers save on tax and benefits.

<sup>48</sup> Krútka, “Postavenie novinára v spoločnosti”, pp. 235-237.

<sup>49</sup> K. Sudor, “Prekáža mi, že existuje TASR” [I mind the existence of TASR], SME, 31/07/2008, available at: <http://www.sme.sk/c/3998846/miroslav-kollar-prekaza-mi-ze-existuje-tasr.html> (last visited on 23/10/2010).

<sup>50</sup> Ľ. Rešovská, “Mestské noviny: aké sú?” [Municipal newspapers: what are they?], 19 Fórum, No.4, (2008), available at [http://www.ssn.sk/source/np\\_forum/000202.pdf](http://www.ssn.sk/source/np_forum/000202.pdf) (last visited on 23/10/2010).

<sup>51</sup> European Commission, Directorate General Information Society and Media, “Study on assessment criteria for media literacy levels”, available at: [http://ec.europa.eu/avpolicy/media\\_literacy/docs/studies/eavi\\_study\\_assess\\_crit\\_media\\_lit\\_levels\\_europe\\_f\\_inrep.pdf](http://ec.europa.eu/avpolicy/media_literacy/docs/studies/eavi_study_assess_crit_media_lit_levels_europe_f_inrep.pdf) (last visited on 23/10/2010).

<sup>52</sup> A. Školkay, “Challenges of Regulation of the Blogosphere”, in B. Klimkiewicz (ed.), *Media freedom and pluralism. Media policy challenges in the enlarged Europe* (2010) 157.

<sup>53</sup> “Koľko blogov je na sieti?” [How many blogs are on the web?], Blogovanie.net, 30/05/2009, available at: <http://www.blogovanie.net/2009/05/kolko-blogov-je-na-sieti.html> (last visited on 23/10/2010).

Interestingly, the 72<sup>nd</sup> Eurobarometer opinion poll from November 2009 suggested that Slovaks had comparatively higher media trust than citizens of other EU countries. Approximately three out of four Slovaks trusted radio (17% above EU average) and television (25% above EU average) the most. The press scored lower, with 55% (but still 13% above EU average).<sup>54</sup> Refined data ranked television *Markíza* as the most objective news source for 26,4%. Second was PSB with 19,7%, third news broadcast *TA3* with 16,5%, and fourth *JoJ* with the trust of 14,9% of viewers. Approximately 20% of respondents did not answer the question.<sup>55</sup> This data reflect a preference for a particular television news rather than anything else. However, historically, the levels of trust in broadcasting reflected a bias and politicisation (or lack thereof) in the programming. This can be assumed from the fact that when the PSB was highly politicised, its trust sank to or below 50%. Traditionally, the less politicised PSR has enjoyed high trust levels in the last twenty years.

Lower levels of trust for print media must be assessed in a broader context. First, newspaper readership is only about 50% of the population. Second, the audience predominantly prefers tabloid journalism. Therefore, it can be argued that all daily press readers (more or less) trust their paper, but that at least a section of the readers do not take tabloid information for granted. This seems to be a rational explanation for the lower trust of print media.

### **3. Media policy in Slovakia**

If we define policy as a course of actions adopted and pursued by a government, it seems that Slovakia has till 2006 not really had a proper media policy. There was only one well-planned media policy, drafted and implemented by Robert Fico's government in 2006-2010. However, Fico's controversial media policy decisions have been criticized for their reflection of the government's distrust of independent media reporting as well as their compliance with the business interests of the major private broadcasting players (or at least some of them). The new government of Iveta Radičová has also set clear media policy targets. However, only the next three years will show how many of these political promises will be developed into real policies.

#### **3.1 Actors in media regulation and policy**

Slovak media policy is influenced primarily by governmental and, in a limited manner, by non-governmental institutions. While the Ministry of Culture is the most important actor in formulating media policy, its implementation is mostly in the hands of specialised councils. Further regulation is carried out through a number of other state and semi-state agencies. Even though the regulation of the media rests with the government (through legislation and personnel policy), some non-governmental actors are also involved with media policy in Slovakia.

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<sup>54</sup> See Eurobarometer 72.

<sup>55</sup> "Najobjektívnejšie je spravodajstvo TV Markíza" [The most objective news is on TV Markíza], *Tvnoviny*, 28/12/2009, available at: <http://tvnoviny.sk/spravy/domace/najobjektivnejsie-je-spravodajstvo-tv-markiza.html> (last visited on 23/10/2010).

The Ministry of Culture of the Slovak Republic is responsible for drafting almost all media regulation. The Slovak parliament has significant powers to amend drafts or propose new regulations. The Broadcasting and Retransmission Board (BRB) and the Press Council (PrC) are the key players in media policy implementation. The BRB is a semi-state body supervising electronic media only. By contrast, the PrC is a non-governmental organisation (NGO) established by the major publishers' and journalists' associations and has no right to take legal actions. The PrC only monitors compliance with its Code of Conduct on a moral basis. Its decisions are not legally binding and the PrC can not sanction those who refuse to comply with its rulings. Due to some of its controversial decisions,<sup>56</sup> the credibility of the PrC among journalists has suffered somewhat. This situation has contributed to a new trend, where the courtrooms have become a major venue for the implementation of media policy concerning (not only) the press. As experience shows, this shift has given enormous advantage to politicians willing to gain revenge against media criticism.

The Slovak Television Council (STC) and the Radio Council (RC) supervise the activities of public service electronic media. Financial arrangements are supervised internally by the Supervising Council and externally by the Ministry of Finance, and by the Parliament. Technical issues concerning digital broadcasting and frequency spectrum monitoring are usually under the Ministry of Transport, Post and Telecommunications and the Telecommunication Office. The Anti-Monopoly Office monitors ownership concentration and checks unfair dominance of the market.

Non-state bodies are significantly less powerful in media policy drafting, implementation and assessment. The Slovak Syndicate of Journalists (SSN) with over 2,000 members is the largest organisation. However, many of its members are only occasional writers and freelancers and the organisation does not seem to represent journalistic community at large. Its main actions in the field of media policy are statements and drafting of print media regulation. It creates draft legislation proposals and creates policy statements and papers involving both self-regulation documents and also 'hard law'. Nevertheless the organization has been strongly criticised by some of its peers for weak leadership and its inability to fight against the unpopular Press law, passed in 2008. Most directly involved in the fight against the controversial 2008 media law has been a local branch of the International Press Institute and Association of Publishers of Periodical Press.

The aforementioned actors are mostly involved with policy-making. However, informal supervision is carried out by a few important NGOs. The independent Slovakpresswatch (SPW) project, carried out by the INEKO NGO, focuses on fact checking and suspicions of business dependency in reporting. SPW has become very popular for its instant revelations of factual mistakes, plagiarism or of corruption suspicions.<sup>57</sup> Important political bias reports in the media are occasionally published by the NGO MEMO'98.<sup>58</sup>

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<sup>56</sup> See 17 FORUM, No. 10 (2006), available at: [http://www.ssn.sk/source/np\\_forum/000143.pdf](http://www.ssn.sk/source/np_forum/000143.pdf) (last visited on 23/10/2010).

<sup>57</sup> See [www.spw.blog.sme.sk](http://www.spw.blog.sme.sk) (last visited on 23/10/2010).

<sup>58</sup> See [www.memo98.sk](http://www.memo98.sk) (last visited on 23/10/2010).

Slovakia's journey towards a free and depoliticised media has taken a little longer than originally expected. In the first phase of legislative changes (after 1989) the process was driven internally and introduced basic principles of a free press. A common feature of almost all subsequent Slovak administrations has been that they usually lacked a comprehensive media policy strategy. Even if they had some plan, it was mostly vague and rarely pursued. It can be stated that Slovak political elites typically did not seem to be genuinely interested in the development of strategic media regulation and most media policy changes were products of special conditions under which they were created. These conditions reflected for example the accession process to the European Union (Law on Broadcasting and Retransmission), personal dissatisfaction of policy-makers with the press (Press Law), or a desire to introduce better governance (Laws on public service media passed in 2003 and 2004).

### **3.2 Freedom of expression and information**

A short journey through the history of Slovakia demonstrates a strong tradition of censorship. In fact, there was almost no tradition of either a free media or the rule of law in post-communist Slovakia.

Fundamental changes in media legislation in Slovakia started as a result of the political and constitutional changes after the fall of communism. This process consisted of dismantling the "socialist" legal system on the one hand and unsuccessful attempts at rearranging an asymmetrical constitutional federative system on the other hand. The former issue was reflected in the liberalisation of print media publishing and distribution, partial decriminalisation of writing and speech, and in the slower emergence of a dual media system, including attempts to denationalise the state-owned electronic media. The latter issue was reflected in a national push to separate Czech and Slovak public service media as opposed to a pressure to defend federal radio, television and some daily newspapers, supported by the federal Czechoslovak government.

The freedom to publish, which re-emerged *de iure* in 1990 with changes in the Press Law, was, however, already present *de facto* in December 1989. The law failed to address editorial secrecy and sanctions for state organisations (including authorities) refusing to provide requested information. The modification of the Criminal Code abolished the criminalisation of activities labelled as "provocation", "subversion" or "press carelessness". However, a controversial paragraph regarding "defamation" remained in force for a couple of the next years. Defamation against the state under communism and up until the early 1990s was a crime, but this paragraph had never been applied and was completely removed later. Personal defamation including defamation of members of the government on the other hand, has been utilised on a number of occasions, with some success, including criminal charges, to muzzle journalists.

Changes in the Civil Code have further strengthened the personal rights of citizens, including the right to privacy and the right to financial compensation for illegal interference in their private life, honour and dignity. An amendment to the press law allowed foreign capital entry to the print media market. The Constitution of the Slovak Republic, passed in 1992, established media freedom and freedom of expression at a

constitutional level. The Constitutional Court and the European Court of Human Rights have proven to be very important institutions of last appeal.

Federal Act No. 136, passed in 1991, divided the rights and duties in broadcasting between the federal government and the two national governments. The national Acts No. 254 and Act No. 255, also adopted in 1991, legalised the (*de facto* already functioning) national public service media institutions: Slovak Television and Slovak Radio. These were the first laws in CEE establishing public media institutions, based on the experiences of Austria and Germany. This regulation, however, established partial dependency of the media on the state budget, which was later politically abused.<sup>59</sup> The public service media were financed through obligatory fees, yet until 1995 there were no legal sanctions against those who did not pay. A viable effort to enforce the law and to collect these fees occurred only in the 2000s.

A dual broadcasting system was introduced in 1991 through Law 468/1991. Although amended in several instances, this principal regulation remained in effect for nine years, until its replacement in 2000 (by Law 308). A regulatory licensing body, the Council of the Slovak Republic for Radio and Television Broadcasting (later renamed), was established in 1992 under Act No. 294.

Amendments in 1992 and 1993 changed the method of selection and election of supervisory council members in the public service media. What had initially started as independent bodies, changed in 1993, when the councils began to become politicised. To date this trend has not disappeared. Almost all members of the three supervisory councils (the Radio Council, Council of Slovak Television and Board for Broadcasting and Retransmission) are political nominees, elected by simple parliamentary majority. Informal rules, developed in the late 1990s and early 2000s, however, require some members to be nominated by the political opposition. Formally, there are often so called civic candidates but these are *de facto* political candidates. The election of all these candidates depends on parliament. For all these reasons, public service media have never gained full financial, managerial, and consequently editorial, independence.

Generally speaking, successive administrations in Slovakia have mostly lacked any media strategy. After 1998 the government of Mikuláš Dzurinda took power, and its new Government Council for Mass Media initiated the replacement of the 1991 laws. Parliament passed new media regulations for the PSR in 2003 (Act No. 619) and PSB in 2004 (Act No. 16). Under the modified legal framework, a new body, the Supervisory Council, should monitor the financial and business operations of public service media. A slight depoliticisation of electronic public service media was achieved with the introduction of a system for the selection of the director through media councils rather than parliament.

In the following years, discussion about the need for a comprehensive media law started for the first time in Slovak history. However, a lack of political consensus made it impossible to enact such new legislation. Unfortunately, Slovak political elites have never really solved the question of what a □public service institution□ is as far as the media are

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<sup>59</sup> A. Školkay, “The fight over public broadcasting in the first year of Slovak independence”, 3 South East European MONITOR No.5 (1996) 23.

concerned.<sup>60</sup> Merging of broadcasting regulation and telecommunication regulation, traditionally separated and governed by two independent regulatory authorities, was part of the national discussion. While the two have not as yet merged, this adjustment may nevertheless happen in future.

Changes in media regulation have been made in the light of the *acquis communautaire*. A set of new laws, passed in 1999-2000, and later amendments created the current legal media framework in Slovakia. Although the new regulations were triggered by EU accession, the adoption of new legislation also gave an opportunity to make media policy changes not necessarily required by the EU.<sup>61</sup>

One of the laws adopted was the EU Television without Frontiers (TWF) Directive, which was introduced into the Slovak legal system through Law 308/2000 *On Broadcasting and Retransmission*. Since 2000, the act has been amended fourteen times<sup>62</sup> and it is the most important media law for electronic media. It contains a set of comprehensive rules for television and radio broadcasting, retransmission and since 2009, for audiovisual services on demand as well. The law is a result of the liberalisation process undertaken at the EU level<sup>63</sup> and, in part, of technological change.

A new legal framework for public service electronic media was introduced almost simultaneously with Slovakia's accession to the EU. The *Slovak Television Act* (2004) with its six amendments and the *Slovak Radio Act* (2003) with seven amendments defined public service media as national, independent, informative, cultural and educational institutions, providing their programme services to the public. In practice however, Slovak Television in particular has been subjected to occasional manipulation of its primetime news, political discussions and investigative reporting. This manipulation has been an issue for over twenty years, but it has lately become more sophisticated, less frequent, indirect and more subtle.

The *Press Act* from 2008 spurred considerable controversy and criticism among journalists and publishers.<sup>64</sup> The main reason for their protests was the introduction of

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<sup>60</sup> A. Školkaý, "Komentár k návrhu zákona o verejnoprávnych organizáciách" [Commentary on Draft Law on Public Institutions], *Stratégie* (2003), manuscript published previously at [strategie.sk](http://strategie.sk).

<sup>61</sup> O. V. Johnson and A. Školkaý, "Media legislation and media policy in Slovakia: EU accession and the second wave of reform", 11 *Media Research* (2005) 73, at p. 73-75.

<sup>62</sup> This law also adopted major part of Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, OJ L 202, 30/07/1997, and Directive 2007/65/EC of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, OJ L 332, 18/12/2007.

<sup>63</sup> H. Nieminen, "Towards democratic regulation of European media and communication", in B. Klimkiewicz (ed.), *Media freedom and pluralism. Media policy challenges in the enlarged Europe* (2010) 3.

<sup>64</sup> "Nový tlačový zákon: Takto môže zmeniť noviny!" [The new Press Act: This is the way it can change newspapers!], *Topky.sk*, 27/03/2008, available at: <http://www.topky.sk/cl/10/229028/Novy-tlacovy-zakon-Takto-moze-zmenit-noviny-?from=bleskovky> (last visited on 23/10/2010), and Slovak Syndicate of Journalists, "Pripomienky SSN k návrhu zákona o periodickej tlači a o zmene a doplnení niektorých zákonov (tlačový zákon)" [SSN comments on a draft law on periodicals and about changes and

three controversial rights: the right to correction, the right to reply and the right to additional announcement. Non-compliance can be sanctioned with financial fines of up to EUR 4,979. The Press and News Reporting Act (the official title of the legislation) limits the absolute freedom of the press because it recognizes rights that force media to publish reactions of the individuals involved in journalists' stories. Proponents of the law argue that this access to alternative opinions creates a more equal situation in the media space. Previously, it was difficult to get a quick reaction to media reports published. On the other hand, the Press Act has introduced a new right for the publishers, broadcasters and news agencies (and all their representatives) to obtain truthful and comprehensive information from public bodies in time. The new law, however, has not set sanctions for non-compliance.

As far as the three controversial rights are concerned, research has confirmed that the feared flood of requests for corrections, replies and additional announcements only partially materialised.<sup>65</sup> As a consequence, however, journalists face stronger pressure for self-censorship or double fact-checking, and the media have additional costs for legal counselling in deciding the eligibility of correction requests. Nevertheless, the new Slovak administration has already announced its plan to abolish the right to reply for public figures.<sup>66</sup>

The new government also plans to transform public service media and to change their financing rules. So far, fees for public service media are regulated by the Act on *Payment for Services to the Public Provided by Slovak Television and Slovak Radio*. The primary financial source of both institutions is the compulsory monthly fee paid by households and employers as defined by law. For its calculation, consideration is given to the number of employees and electricity accessibility. Traditionally, citizens were reluctant to pay these fees and the regulatory bodies had difficulties in collecting. Under the new plan, these fees should be abolished. Sceptics agree that the current system is far from guaranteeing editorial freedom<sup>67</sup> but they also acknowledge that public service media would be even less independent without these fees. The European Broadcasting Union has urged the Slovak government to retain the licence fee as the means of financing Slovak Radio and Slovak Television rather than shifting to direct government subsidy.<sup>68</sup>

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amendments of some acts (Press act)], 19/06/2007, available at: <http://www.ssn.sk/source/document/000115.doc> (last visited on 23/10/2010).

<sup>65</sup> L. Kočíšek, "Noviny plné opráv a odpovedí? Obavy z tlačového zákona sa nenaplnili, tvrdí štúdia" [Newspapers full of corrections and answers? Fears of the Press Act have not been fulfilled, study says], 11/05/2009, available at: <http://medialne.etrend.sk/tlac-spravy/noviny-plne-oprav-a-odpovedi-obavy-z-tlacoveho-zakona-sa-nenaplnili-tvrdi-studia.html> (last visited on 23/10/2010).

<sup>66</sup> Platform of the Government "August 2010", available at: <http://www.vlada.gov.sk/data/files/6257.pdf> (last visited on 23/10/2010), at p. 36.

<sup>67</sup> See for example: D. Jancová, "Zrušenie poplatkov nie je všeliek" [The abolition of fees, however, is not a panacea], 26/06/2010, available at: [http://spravy.pravda.sk/zrusenie-poplatkov-nie-je-vseliek-drx-sk\\_domace.asp?c=A100626\\_110111\\_sk\\_domace\\_p29](http://spravy.pravda.sk/zrusenie-poplatkov-nie-je-vseliek-drx-sk_domace.asp?c=A100626_110111_sk_domace_p29) (last visited on 23/10/2010).

<sup>68</sup> European Journalism Centre, "EBU urges Slovak government to retain licence fee", 05/10/ 2010, available at: [http://www.ejc.net/media\\_news/ebu\\_urges\\_slovak\\_government\\_to\\_retain\\_licence\\_fee/](http://www.ejc.net/media_news/ebu_urges_slovak_government_to_retain_licence_fee/) (last visited on 23/10/2010).

The *Act on Digital Broadcasting*, adopted in 2007 and amended twice<sup>69</sup> regulates the digital broadcasting of programme services but does not apply to content services accessible through the internet if these services are not accessible via another manner of transmission. As a result of this law, Slovakia was obliged to undertake a digital switch-over. The technical conditions set by this legislation caused some controversy because it became almost impossible for new major television stations to enter the Slovak market. As put by Ondrášik: *'It only strengthened the competition of current players.'*<sup>70</sup> This politically motivated setting of standards (to the advantage of a few major established terrestrial broadcasting operators) and its follow-up actions led to politically motivated personnel changes at the Telecommunication Office. Its chief, Branislav Máčaj, was dismissed by the government for his criticism of the unfairness of these rules, in particular since he did not agree with the strong indirect involvement of the major television broadcaster, TV *Joj*, in the selection of multiplex providers. Máčaj identified clear private business interests in the new regulation, followed by a public tender: *'The success of the Towercom company in the public tender was expected, in the way the cards were dealt'* (i.e. manipulated in favour of a concrete company). The reason for this alleged manipulation of the tender was the ownership connection between Towercom as a provider of digital multiplexes and television channels *Joj* and *TA3* as broadcasters, with the political support of the major political party (then in power) Smer-SD.<sup>71</sup> While the private sector did not want any additional business competition, the major governing political party wanted to avoid a new broadcaster, with possibly critical content, entering the media landscape before the 2010 parliamentary elections. Indeed, a later report stated that shortly before the elections, the owners of TV *Joj* blocked at least one news report criticising the political party Smer.<sup>72</sup>

After Máčaj's dismissal, the Telecommunication Office immediately cancelled the first multiplex provider tender with an official explanation related to changes in the frequencies spectrum.<sup>73</sup> In other words, alleged changes in technical conditions were offered as an excuse for the cancelled tender. Towercom subsequently won a new tender, but both Towercom and its owner J&T (a major investment group involved in various business operations with sometimes controversial background) rejected any accusations of involvement in this manipulation.

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<sup>69</sup> This act adopted parts of Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC and Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission, OJ L 248, 6/10/1993.

<sup>70</sup> B. Ondrášik, "Media ownership, regulation, concentration, and competition in the Slovak republic", in M. Glowacki, B. Ostrowska-Dobek (eds), *Comparing media systems in Central Europe. Between commercialization and politicization* (2008), at p. 210.

<sup>71</sup> "Šéf Telekomunikačného úradu rozpráva na Fica" [Chief of the Telecommunications Authority tells on Fico], *Etrend*, 27/11/2008, available at: <http://ekonomika.etrend.sk/ekonomika-slovensko/sef-telekomunikacneho-uradu-rozprava-na-fica.html> (last visited on 23/10/2010).

<sup>72</sup> M. Tódová, "J&T v Joj stopla reportáž o financovaní Smeru" [J&T stopped a coverage on financing of Smer on TV Joj], *SME*, 20/05/2010, available at: <http://www.sme.sk/c/5383939/jt-v-joj-stopla-reportaz-o-financovani-smeru.html#ixzz10RYI0EQ5> (last visited on 23/10/2010).

<sup>73</sup> "Výhrady TÚ k digitálnej stratégii po odvolaní predsedu zmizli" [TA's reservations about the digital strategy disappeared after the President's withdrawal], *Živé*, 12/01/2009, available at: <http://www.zive.sk/vyhrady-tu-k-digitalnej-strategii-po-odvolani-predsedu-zmizli/sc-4-a-280891/default.aspx> (last visited on 23/10/2010).

Private broadcasters were also successful in postponing the digital switchover by one year, arguing they were unprepared to accept unclear conditions for this process.<sup>74</sup>

The European Commission openly criticised Máčaj's dismissal and launched legal proceedings against Slovakia.<sup>75</sup> Under this pressure, the parliament changed the procedure for the dismissal of the director of the Telecommunication Office and the Commission ended its action.<sup>76</sup>

General rules for audiovisual production in Slovakia were introduced through the *Audiovisual Act* of 2007.<sup>77</sup> The *Act on Audiovisual Fund* was passed a year later. It established a much-needed grant scheme for Slovak film-makers and thus was very welcome. The first selection of the beneficiaries, however, was strongly criticised. About 20% of the available sources were given to the chair and the vice-chair of the Council of the Audiovisual Fund.

In 2008, the Slovak parliament passed the *Act on Press Agency of the Slovak Republic* and finally transformed the state-owned newswire *TASR* into a public service media with its own independent regulatory board. The act literally demands balanced, pluralistic and objective coverage. Interestingly, with the exception of short periods, *TASR* has always been reasonably balanced in political coverage. However, the indirect contract-based subsidy from the Ministry of Culture which constitutes a major financial source for the agency has become arguable. Financing matters as well as other issues have thus motivated the new government to announce changes to this law.<sup>78</sup>

Freedom of expression and information in Slovakia has been assessed by many institutions and could be characterised as fluctuating and relatively inconstant. This is a result of regulatory changes, media market development, as well as the political style of governing politicians.

The *World Audit Democracy Report* suggested in November 2009 that Slovakia ranked 25<sup>th</sup> among 150 countries in the Press Freedom Index.<sup>79</sup> Thus, Slovakia was situated not only geographically, but also normatively, in between Hungary and Poland, which is a fair observation. Interestingly, a correlation can be observed between the freedom of the press index and the level of corruption perception. Taking this into account, the allocated level of press freedom seems to be rationally justified.

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<sup>74</sup> A. Školkaý, "DTV in Slovakia", in W. Van den Broeck and J. Pierson (eds), *Digital television in Europe* (2008), at p. 181-186.

<sup>75</sup> "Máčaj sa bojí o budúcnosť slovenského televízneho vysielania", *Tvnoviny*, 15/05/2009, available at: <http://tvnoviny.sk/spravy/ekonomika/macaj-digitender-vyhra-towercom-udajne-spojny-s-j-t.html?ar=> (last visited on 23/10/2010).

<sup>76</sup> "EK uzavrela konanie proti Slovensku pre odvolateľnosť šéfa TÚW [European Commission closed the case against Slovakia for revocability of the chief of the TA], *Itnews*, 25/05/2010, available at: <http://www.itnews.sk/spravy/telekomunikacie/2010-06-25/c134411-ek-uzavrela-konanie-proti-slovensku-pre-odvolatelnost-sefa-tu?ref=rss> (last visited on 23/10/2010).

<sup>77</sup> Act on Conditions of Evidence, Public Dissemination and Storage of Audiovisual Works, Multimedia Works and Sound Records of Artistic Output.

<sup>78</sup> Platform of the Government, "August 2010", p. 36.

<sup>79</sup> World Audit, "Democracy table November 2009", available at: <http://www.worldaudit.org/democracy.htm> (last visited on 23/10/2010).

The 2009 *Reporters sans Frontières* report ranked freedom of the press in Slovakia in 44<sup>th</sup> place (together with Spain) and with eleven negative points among 173 countries.<sup>80</sup> The fluctuation in Slovakia's ranking is best seen in this report. Only a year earlier, Slovakia was in seventh place, together with countries like Sweden and Switzerland. Since the index is based on journalists' personal assessments, the dramatic change most likely mirrored journalists' frustration with the passage of the new Press Act, verbal attacks from the government and the growing number of defamation cases.

According to *Freedom House*, Slovakia was a *free* country in 2009, along with eighty-nine of 194 countries examined.<sup>81</sup> However, the International Press Institute in its World Press Freedom Review for 2009 strongly criticised Slovakia's passage of the Press Act.

All these evaluations and rankings seem to reflect the difficult situation of press freedom in Slovakia.<sup>82</sup> A survey among journalists in Slovakia conducted in 2008 presented some interesting results concerning political and financial pressures in the media. Almost half of the journalists surveyed (48%) claimed to have faced political pressures from state authorities and/or advertisers and about the same number (51%) from media owners. Significant pressures from editors were also reported (47%).<sup>83</sup>

Historically, the most difficult time for press freedom was the period 1993-1998, when the government was headed by Vladimír Mečiar. This was also confirmed in the surveys of Holina and Brečka in 2006, conducted with 313 and 374 journalists respectively. The worst journalists' rating was recorded for Vladimír Mečiar (1993-1998), followed by Robert Fico (2006-2010), and the second government of Dzurinda (2002-2006). The lowest level of political anxiety between the press and the government was observed during the first government of Mikuláš Dzurinda (1998-2002). The journalists also confirmed that Mečiar and the political style of his government was one of the most traumatic moments in the history of the Slovak media. Back in 1997, 64,3% of journalists felt political pressure, while in 2005 this number had decreased to 49,5%.<sup>84</sup> Obviously, this trend was reflected in the media policies of the governments in question.

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<sup>80</sup> Reporters Without Borders, "Press Freedom Index 2009", available at: <http://en.rsf.org/press-freedom-index-2009,1001.html> (last visited on 23/10/2010).

<sup>81</sup> Freedom House, "Freedom in the World 2010 Survey Release", available at: <http://www.freedomhouse.org/template.cfm?page=505> (last visited on 23/10/2010).

<sup>82</sup> For comparison with earlier analyses on similar issue see A. Školkay, "Sloboda masmédií na Slovensku a vo svete v roku 1994" [Freedom of media in Slovakia and the world in 1994], 37 *Otázky žurnalistiky* No. 4 (1995) 275.

<sup>83</sup> Slovak Press Watch et al., "Názory slovenských novinárov na vybrané otázky mediálneho prostredia", at p. 8.

<sup>84</sup> B. Ondrášik, "The Slovak press law: History and its impact on free media", available at: <http://www.branoondrasik.sk/research-reply.pdf> (last visited on 23/10/2010), at p. 8.

### 3.3 Structural regulation

Structural regulation of the Slovak media market has mainly focused on licensing and ownership matters. The print media are not subjected to licensing procedures, but television and radio licensing is regulated in detail. PSB and PSR are not subject to licensing but their broadcasting is specifically defined in exclusive laws.

#### 3.3.1 Licensing rules

The licensing process in Slovakia started in times of strong political polarisation and was thus heavily politicised. Since then, the situation has changed. Generally speaking, licensing standards in Slovakia are now similar to those in other EU countries. The following examples, however, illustrate the heavy politicisation of licensing procedures in Slovakia in the mid 1990s.

The first licence for nation-wide terrestrial television broadcasting was only awarded in 1995. Before that, the Slovak Parliament twice refused to approve licences for private nation-wide television broadcasting. With the tacit approval of the then Prime Minister Vladimír Mečiar, the first nation-wide privately held terrestrial television station went on air in late August 1996 and, contrary to expectations, provided airtime for criticism of the government. The introduction of private nation-wide television required not only foreign financial aid but also domestic political backing.

Another case of political intervention happened in the case of the *Radio Free Europe (RFE)* broadcast to Slovakia. The Slovak Ministry of Telecommunications tried to cancel the right to use the frequency spectrum for its Slovak language broadcast on AM frequencies in 1993/1994. The official explanation was that those frequencies were required for Slovak Radio broadcasts in the future. Ironically, the management of public Slovak Radio publicly denied such needs. The unofficial reasons were related to open criticism of the Slovak government in its broadcasts. Finally, the government reluctantly agreed to extend RFE's broadcast rights for Slovak AM frequencies.<sup>85</sup>

The Licensing Council was under strong pressure in 1998, when the Minister of Culture Ivan Hudec (a member of Mečiar's government) strongly criticised the licence given to Radio Twist in Eastern Slovakia.<sup>86</sup> Radio Twist was considered a key antigovernment radio outlet.

Since then, licensing processes have been depoliticised. Today, the BRB awards licences without the involvement of parliament whereas previously, nation-wide licences issued by the BRB had to be approved by parliament. There has never been a condition to pay high fees for frequency utilization in Slovakia. Frequency use requires only a standard administration fee and a reasonably set (one could actually argue very low) additional fee, defined by the geographical size of the area to be covered by the broadcaster. The process is regulated by two almost identical laws: the older Act on

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<sup>85</sup> A. Školkay, "Journalists, political elites and the post-communist public: The case of Slovakia", 12 *Journal of Communist Studies and Transition Politics* No.4 (1996) 73, at p. 73-77.

<sup>86</sup> J. Füle, "Médiá" [Media], in G. Mesežnikov and M. Ivantýšyn (eds) *Slovensko 1998-1999. Súhrnná správa o stave spoločnosti [Slovakia 1998-1999. The global report on the state of the society]* (1999) 590, at p. 599.

Broadcasting and Retransmission and the recent Act on Digital Broadcasting. After Slovakia's digital switchover, scheduled for 2012, analogue terrestrial broadcasting will no longer exist.

The licensing conditions are very detailed, but in principle, each beneficiary can be granted only one licence valid for eight years for a radio programme and twelve years for a television programme service. In the case of digital broadcasting, one subject can get additional licences only for the digital broadcasting of monotype television (for example, an exclusively advertising channel). Unsuccessful applicants as well as holders of a revoked licence have the right to appeal within fifteen days. A negative appeal decision may be appealed at the Supreme Court.

In the case of print media, the owner or publisher has an obligation to register with the Ministry of Culture of the Slovak Republic. In the event of no official reply being provided in due time, this is considered as an approval.

### 3.3.2 Ownership rules

According to domestic legislation, the broadcasting licence is not transferable to another legal or natural person, not even if the company or parts of it are sold. One of the biggest controversies in recent Slovak media history has been the campaign called *Let's Rescue Markíza*, triggered by a failed attempt to transfer the broadcasting licence indirectly. In the summer of 1998, only a few months before the parliamentary elections, an alleged new owner (backed by court ruling) entered the premises of the television network *Markíza* with a group of security guards and tried to take over the station. Back then, *Markíza* was the only national terrestrial broadcasting not controlled by the government, and its news programmes heavily criticised Mečiar's government. There were rumours that even the official state secret service was involved in this case.<sup>87</sup> Opposition politicians took this opportunity to portray themselves as the rescuers of free media.

Current law also bans mutual ownership of a TV broadcaster by an independent TV producer. A periodical publisher, who publishes a title at least five times a week and distributes it to at least half of the Slovak territory, is also banned from owning a multi-regional or nationwide broadcasting licence. Further, one legal or natural person may not be connected via ownership rights with more than one multi-regional or nationwide broadcaster of either radio or television programme services. In addition to this, there is a ban on any ownership connection with publishers of nationwide periodical press. A legal or natural person can be connected via property rights with more broadcasters – licence owners – for local and regional television or local radio programme services. However, there is a 50% limit on the total size of the population that can be covered by this joint broadcast.

In all other cases there is a general ban on property ownership and personal connection between radio broadcasters, television broadcasters and publishers of nationwide press. As far as the owners' origin is concerned, the BRB is obliged by law to take into account "an adequate property participation of Slovak persons and their representation in company bodies", in the event that a licence seeker is a legal person

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<sup>87</sup> Füle, "Médiá", pp. 590-591.

with foreign ownership participation. In other words, it is impossible to have an exclusively foreign owned and foreign managed broadcasting station in Slovakia.

Print media companies are legally required to disclose their ownership structure relations to the publisher, any shareholder with a voting rights share at or above twenty percent, and anyone owning at least a twenty percent interest in property rights. Ownership records are published on the website of the Ministry of Culture and in the first issue of each periodical in a calendar year. Broadcast media must register with the Company Register's Office, whose records are public documents, available online.

In reality, however, the identification of media owners is quite challenging. For example, recently, after a change in its ownership structure, the editors of the daily newspaper *Pravda* could not figure out the paper's actual owners.<sup>88</sup>

There are no rules prohibiting media ownership by specific organisations, political parties or religious associations. In reality, all attempts by political parties to establish their own daily newspapers have failed. There are, however, some marginal weeklies, bi-weeklies and monthlies which claim open, or at least tacit, support for some parties or their ideologies.

### 3.3.3 Competition rules

Ondrášik argued that a lively competition can be seen among the large print outlets but a higher concentration prevails in various market segments in Slovakia. In his view, large media chains dominating the market threaten the diversity of the local press.<sup>89</sup> According to him, television broadcasting is in fact a virtual oligopoly.<sup>90</sup> This means that there are two major players in the television market, TV *Markíza* and TV *Joj*. To keep their oligopoly at the dawn of the digital era, both stations established 'sister' stations: TV *Doma* and TV *Joj Plus*.

Perhaps ironically, the development of a free media market in Slovakia was purposely slowed down by the public service media in 1990/1991. Their leadership was afraid of private competition and demanded time for market adjustments. Currently, the Act on Broadcasting stipulates that broadcasters can join their resources and broadcast joint programmes only if their audience does not surpass fifty percent of the inhabitants. The Licensing Council and the Antimonopoly Office are obliged to prevent the abuse of a dominant position by any player in the market. However, only in rare cases has the Antimonopoly Office sanctioned the media for unfair competition (such as TASR and some print media in the case of unfair conditions given for commercial use of their electronic databases by data processing companies).<sup>91</sup>

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<sup>88</sup> G. Šípoš, "Pre novinára je principiálna vec vedieť, pre koho píše" [It is the principal thing for the journalist to know for whom he writes], 8/09/2010, available at: <http://spw.blog.sme.sk/c/240658/Pre-novinara-je-principialna-vec-vediet-pre-koho-pise.html> (last visited on 23/10/2010).

<sup>89</sup> Ondrášik, "Media ownership, regulation, concentration, and competition in the Slovak republic", p. 210.

<sup>90</sup> Ibid, p. 224.

<sup>91</sup> See "Protisúťažná praktika" [Anticompetitive practices], Article 39 of the Act No. 136/2001 Coll., Verdict of the office: fine, available at: <http://www.antimon.gov.sk/480/3475/rok-2009.axd>, and

As has already been discussed, the current major television players *de facto* closed the market for any new nation-wide television in 2007-2008. In short, although it may seem that competition rules are fair, in reality there are means of preventing any relevant competition from emerging.

Government subsidies for the smaller (non-profit) media in Slovakia are not unusual. In the past, however, state authorities often selected the beneficiaries arbitrarily. Such practices were common throughout most of the 1990s and were driven by the division of publishers into government ‘friendly’ or ‘unfriendly’. To ensure some intellectual quality and plurality, the Ministry of Culture subsidises a number of marginal intellectual journals without detailed quality criteria for aid allocation.

A new feature of Slovak public service media was introduced in 2009. These media were offered the opportunity to sign Contracts with the State, which allocated financial resources for non-commercial public service mission programmes (e.g. educational programmes for children). Clearly, state media policy includes many measures to guarantee production for minorities and children in public service broadcasting which otherwise may not be of interest for private television or radio businesses.

There are no known recent cases of competition problems in the print sector. The Antimonopoly Office is monitoring the market situation, but it should be noted that its actions are rather reactive. The office does not approve mergers before they happen. Mergers are only controlled in cases where the global turnover of the implicated parties is set to reach at least forty million EUR annually, with at least two participants having an annual local turnover (in Slovakia) of around 12 million EUR, or one participant having a local turnover of 16.6 million EUR and another having a global turnover of 40 million EUR.<sup>92</sup> The Antimonopoly Office follows the financial dictum of antimonopoly regulation and does not cover such criteria as content diversity.<sup>93</sup>

Recently, there have been some concerns about television ownership concentration. According to the BRB, it transpires that the first level of ownership (official owners) did not show any signs of concentration (i.e. everything seemed to be according to legislation). However, this agency is not authorised to investigate second and third level ownership connections.<sup>94</sup> In other words, the law does not allow an in-depth search for real owners, and thus for possible cross-ownership or other illegal behaviour.

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“Protisúťažná praktika” [Anticompetitive practices: infringement], Article 39, Verdict of the office: 300,000 SKK, <http://www.antimon.gov.sk/480/3398/rok-2008.axd> (last visited on 23/10/2010).

<sup>92</sup> B. Ondrášik, “Slovakia”, 53 *Otázky žurnality* No.1-2 (2010) 126, at pp. 126-127.

<sup>93</sup> Personal telephone conversation with V. Ferko, Press secretary of the Antimonopoly Office, Bratislava, 23/09/2010.

<sup>94</sup> Personal telephone conversation with the director of the Office of the Council for Broadcasting and Retransmission, Bratislava, 23/09/2010.

### 3.4 Content regulation

Content regulation is usually most controversial area of regulation because it is a 'visible', and at the same time, morally-laden issue. In fact, content regulation causes controversy at two major levels: political and moral. All Slovak governments since 1989 have been notoriously dissatisfied with the media. Their criticism has varied from a standard and often justified accusation of unprofessionalism or unethical behaviour due to incorrect claims and accusations, through to criticism of overwhelmingly negative coverage and to various forms of media conspiracy, usually suggesting that journalists' motivation to criticise the government was paid for from abroad.<sup>95</sup> Consequently, there were various attempts to regulate the content of the media. Some were legal and soft, but there were some case of personal intimidation as well (e.g. during Mečiar's governments in 1993-1998 in one journalist's neighbourhood somebody distributed leaflets accusing him of homosexuality<sup>96</sup>). Paradoxically, it was Mečiar's government that first called for ethical self-regulation of journalists. The controversial government's coalition members even drafted a *Declaration on Ethics in Journalism* in 1993.

Another form of criticism—moral—fought against the sudden flood of pornography and sexual topics after 1989. Later, it focused on personal offences against moral integrity and honour (libel and defamation cases), and the protection of minors. Only quite recently, in the last ten years or so, has there been discussion about open and latent racism in media reporting. Previously, only the English language newspaper, *The Slovak Spectator* covered racism and discrimination cases in Slovakia. A study by Vitaliya Bella from early 2003 suggested that most articles about Roma published in four Slovak daily newspapers were factually correct and professional. However, the most read tabloid paper *Nový Čas* was found to report in a negative and incorrect way on Roma relatively frequently. At the same time, the overall representation of Roma in selected Slovak daily newspapers reflected typical negative stereotypes (or negative realities) of Roma.<sup>97</sup>

So far, Slovakia has not particularly addressed the issue of copyright protection in the media sector. Nevertheless, some bloggers have discovered numerous cases of copyright infringement and plagiarism.<sup>98</sup> One of the most debated cases of copyright breach was, ironically, related to a member of the BRB (the media supervisory board), Pavol Dinka. He was accused of false attribution of another blogger's study to (Dinka)

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<sup>95</sup> A. Školkay, "Úlohy médií v politickom diskurze na Slovensku" [The roles of media in the political discourse in Slovakia], in J. Vopálenký (ed.), *Médiá na prahu tretieho tisícročia* [Media on the threshold of the third millennium] (2003), at pp. 95-112.

<sup>96</sup> "Neznámi páchatelia spustili diskreditačnú kampaň voči redaktorovi Rádia Twist Karolovi Lovašovi" [Unknown criminals started libel campaign against journalist from radio twist, Karol Lovaš], SME, 15/05/1998, available at: <http://www.sme.sk/c/2152772/neznami-pachatelia-spustili-diskreditacnu-kampan-voci-redaktorovi-radia-twist-karolovi-lovasovi.html> (last visited on 23/10/2010).

<sup>97</sup> V. Bella, "Obraz Rómov v slovenských denníkoch" [The depiction of Roma in Slovak media], 47 *Otázky žurnalistiky* No. 1-2 (2004) 17, at p. 17 and 23.

<sup>98</sup> See for example, G. Šípoš, "Nový prípad plagiátorstva z archívu TRENDU: obeťou Financial Times" [A new case of plagiarism from the archive of TRENDS: the victim is the Financial Times], 25/01/2007, available at: <http://spw.blog.sme.sk/c/78800/Novy-pripad-plagiatorstva-z-archivu-TRENDU-obeťou-Financial-Times.html> (last visited on 23/10/2010).

himself.<sup>99</sup> Interestingly, Dinka had written books on media considered as propaganda for Robert Fico's government.<sup>100</sup>

Media content issues were raised in many regulatory decisions of the BRB. As these examples demonstrate, controversies with respect to content regulation in Slovakia are not linked with the laws themselves, but rather with their interpretation by the BRB. For example, in November 2007, the Board issued a verbal punishment and ruled that PSR had broken the law with respect to objectivity and impartiality of news and current affairs programmes. The reasoning of the board was that in a political discussion, both the opposition as well as the government should be represented. The broadcast in question featured an opposition parliament member and an NGO representative, without a representative of the government. The Board declared this was not impartial even though it was a fair approach because Slovak radio had actually invited a government representative and made numerous (failed) attempts to secure government representation on the programme. The Board's decision was confirmed in the Regional Court and later in the Supreme Court. It was the Constitutional Court which cancelled the previous rulings (of lower courts, confirming that the Board decision was correct) on formal and substantial grounds.<sup>101</sup> In other words, the Constitutional Court has accepted the arguments of Slovak Radio that, firstly, the Board had not followed formal procedural rules, and, secondly, the Supreme Court as well as Regional Court had not sufficiently dealt with the issue of genuine efforts and achieved results guaranteeing objectivity and impartiality. The Constitutional Court called this Regional Court ruling (which was accepted by the Supreme Court) 'vague and fuzzy'.

Similarly, the BRB sanctioned Slovak Television for non-impartiality in September 2009. The case involved Robert Fico, the then prime minister. Fico was the sole guest on a regular political broadcast, known for its typical discussion format involving two guests. However, the absence of a representative from the opposition was Fico's requirement.

Just recently, the BRB penalised TV Markíza with a 10,000 EUR fine for "intervention into the human dignity of the social group of pensioners".<sup>102</sup> This sanction concerned a primetime news report about the rising costs of social welfare, quoting an expert who argued that there are more pensioners due to better health care.<sup>103</sup>

Previously, there was some controversy regarding the content of public service media. The public service broadcaster must ensure a heterogeneous programme selection

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<sup>99</sup> See <http://bella.blog.sme.sk/c/179515/Pavol-Dinka-spisovatel-publicista-plagiator-zlodej.html>, and <http://www.sme.sk/c/4272054/kritik-medii-pise-ako-plagiator.html> (last visited on 23/10/2010).

<sup>100</sup> O. Bardiovský, "Ideologické písacky" [Ideological writings], 17/08/2010, available at: <http://bardiovsky.blog.sme.sk/c/238435/Ideologicke-pisacky.html> (last visited on 23/10/2010).

<sup>101</sup> Ruling of the Constitutional Court, IV, ÚS 245/09-42, available at: [http://sk.vlex.com/vid/194622327orhttp://www.concourt.sk/search.do?id\\_submenu=c](http://sk.vlex.com/vid/194622327orhttp://www.concourt.sk/search.do?id_submenu=c) (last visited on 23/10/2010).

<sup>102</sup> Board for Broadcasting and Retransmission, "Zápisnica č. 14/2010 zo zasadnutia Rady pre vysielanie a retransmisiu, ktoré sa konalo dňa 31.08.2010 o 09:30 hod. v sídle Rady pre vysielanie a retransmisiu" [Minutes of the meeting of the Board for Broadcasting and Retransmission held on 31 August 2010], available at: <http://www.rada-rtv.sk/sk/spravy/index.php?aktualitaId=1046> (last visited on 23/10/2010).

<sup>103</sup> M. Kernová, "Licenčná rada vidí koalície" [The Licence Board sees in the coalition way], SME, 17/05/2010, available at: <http://www.sme.sk/c/5378318/licencna-rada-vidi-koalicne.html> (last visited on 23/10/2010).

with a majority of public interest programming. Obviously, the question has been what constitutes *programming in the public interest*. For example, when the PSB channel broadcast a local version of the international reality show Pop Idol in 2005, most critics pointed out (in contrast to our opinion) that this was not a programme of public interest.<sup>104</sup> Two years later, PSB introduced a similar home-grown programme, based on a selection of the most popular Slovak songs. This show, even though it had a clear commercial target, was easier to defend and to label as a “public service programme”. Consequently, it did not cause any controversy.<sup>105</sup>

Finally, to illustrate the Slovak heterogeneity of issues related to media content, in the past, there were suggestions of creating a group of *non-commercial* print media, approved by the Ministry of Culture and subject to lower taxes. By contrast, media outlets with large foreign investments were planned to be taxed three to five times more than locally owned outlets. This idea extends back to 1995 but has never been turned into a regulation.

### 3.5 Rules regarding media publishing and broadcasting

Slovakia has witnessed dozens of harsh or controversial court decisions regarding publishing and broadcasting. Troublesome cases are related to excessive damage awards in civil cases, sometimes to the use of criminal charges, as well as to some bizarre justifications for court rulings.

For example, the private Radio *Twist* (later renamed Radio *Viva*) broadcast a press conference of the Minister of Interior in October 2004. The minister announced that the police had accused a local judge of criminal acts. The radio journalist recorded and broadcast the minister’s own words, combined with her commentary. Even though the judge’s name was never mentioned, the judge later sued the radio and won 33,194 EUR. It turned out that the acts he was accused of had happened, but they were not of a criminal nature. Two rulings stated that it was the media who was responsible for broadcasting, even in cases of politicians’ speeches.<sup>106</sup>

The second case shows the burden of criticising a judge. A controversial political figure, the chairman of the Supreme Court and later Minister of Justice, Štefan Harabín, sued the newspaper *Pravda* in seven cases. Just to exemplify the unreasonably high payments, in the case of a cartoon, the paper was ordered to pay 100,000 EUR and cover legal costs. The case is still pending at the Constitutional Court. Not only is the requested amount questionable, but so too is the issue of whether cartoons can be a subject of non-material damages related to dignity and honour.

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<sup>104</sup> T. Popovič, “Analýza: muzikant o SuperStar” [Analysis: A musician on SuperStar], 21/05/2005, available at: <http://zaujímavosti.sme.sk/c/2019811/analyza-muzikant-o-superstar.html> (last visited on 23/10/2010).

<sup>105</sup> Z. Uličianska, “Sledovanost’ STV ťahali staré hity” [Viewership of the Slovak TV was pulled by old hits], 9/07/2007, available at: <http://www.sme.sk/c/3385518/sledovanost-stv-tahali-stare-hity.html> (last visited on 23/10/2010).

<sup>106</sup> M. Tódová, “Bývalý Twist parafrázoval Palka, dostal miliónovú pokutu” [The former Twist paraphrased Palko, and received a million fine], 14/11/2008, available at: <http://www.sme.sk/c/4175212/byvaly-twist-parafrazoval-palka-dostal-milionovu-pokutu.html> (last visited on 23/10/2010).

In the third case, the daily *Sme* was ordered to pay 100,000 USD to the government and apologise to all its members who requested it for the following sentence: “*These are the first casualties of a political cold war waged by the government against the citizens of Slovakia*”. The statement was published at a time of high political polarisation. The son of the President of Slovakia had been kidnapped and in a chain of events, a man who was helping him – *the first casualty* – had blown up in his car. The case is still pending.

It was estimated that over 430,000 EUR was awarded in non-material damage compensation to Slovak politicians in 2009 alone.<sup>107</sup> The aforementioned ex-Minister of Justice and currently Chief Justice sent a pre-trial notice to a number of media outlets, asking them to pay him 200,000 EUR each for alleged libel in 2009.<sup>108</sup> The PSB was involved in eighteen libel cases for its investigative programmes in 2004-2007. Five cases have been decided already, two in PSB’s favour and three against it, with a total in reimbursement charges of 10,000 EUR.<sup>109</sup>

### 3.6 Rules regarding social media publishing

Social media publishing in Slovakia is almost exclusively restricted to the blogosphere. The most popular service, the blog section of the daily *Sme*, created its own Code of Blogger, which has been regularly updated. The code is somewhat similar to the Code of Ethics of the Slovak Syndicate of Journalists. *Sme* bloggers have to give “proper” space to all affected sides of any conflicting topic. Journalists, in addition, should pursue this writing etiquette even in non-conflicting materials. *Sme* bloggers are not allowed to use personal correspondence without permission and after publishing their articles, they can only make small grammar or typo corrections.

### 3.7 Rules regarding information gathering processes

There is absolutely no regulation of search-engines in Slovakia.<sup>110</sup> Slovakia has a law granting access to all public information for any person. Although designed primarily for regular citizens, it has become one of the practical tools for investigative journalists. However, there are two controversial legal rules regarding information gathering processes, both relating to the Penal Code.

First, it is illegal to publish top secret or classified information. This rule says that anyone publishing this kind of information can be imprisoned for up to three years. However, in order to sanction this behaviour, there are other (softer) measures available,

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<sup>107</sup> L. Kočišek, “Úloha sa obrátila. Spoločnosť 7 Plus žaluje Fica” [The role changed. Spoločnosť 7 Plus is suing Fico], 13/01/2010, available at: <http://medialne.etrend.sk/tlac-spravy/uloha-sa-obratila-spolocnost-7-plus-zaluje-fica.html> (last visited on 23/10/2010).

<sup>108</sup> M. Vagovič, “Harabin píše ľuďom, ktorí o to nestoja” [Harabin writes to people who do not care about it], *SME*, 13/05/2009, at p. 3.

<sup>109</sup> Rady Slovenskej Televízie, “ZÁPIS č. 2/2008 z riadneho zasadnutia Rady Slovenskej televízie 13. februára 2008” [Minutes No. 2/2008 of the regular meeting of the Council of the Slovak Television on 13 February 2008], available at: [www.stv.sk](http://www.stv.sk) (last visited on 23/10/2010).

<sup>110</sup> E-mail from Jana Lajdová, Legal Department of Telecommunication Office, 20 May 2010.

too. For example, the National Security Authority (NSA) sanctioned the weekly *Žurnál* (Journal) for publishing select sensitive secret information in 2007. Even though journalists argued that they did it in the public interest, which is supposed to override the classified information regulation, the NSA decided to sanction them with the harshest non-court (financial) punishment.

The second rule concerns the intimacy of oral speech. Publishing illegal recordings and thus causing damage to other people can lead to up to a five year prison sentence. The introduction of this measure was triggered by the threat of publishing scandalous private telephone conversations of politicians or/with business people. The Slovak media provided numerous recordings of this kind.

### **3.8 Supervision**

News reporting requires a balance of sometimes conflicting constitutional and legal interests. In Slovakia, this is done either by NGOs (such as the Press Council), semi-governmental bodies (such as the BRB, STC, RC), governmental bodies (such as the Ministry of Culture) and independent bodies created by the state, such as courts, prosecutors, the police, etc. Major Slovak journalism organisation also adopted a Code of Ethics in 1990. Many editorial offices have their own codes of conduct. These formal codes often lack acceptance or even knowledge among ordinary journalists.

Until 2002, Slovakia did not have any public authority dealing with ethical complaints in the print media. Today, this has become the main responsibility of the Press Council. The council has declared its right to deal with all ethical issues related to the journalists (journalistic profession), but it has only dealt with issues related to print media and, more comprehensively, with issues related to press freedom and access to information. It can deal with some ethical issues on its own initiative too. The plan is to include electronic and online media in its portfolio in the future.

As has already been mentioned, supervisory bodies for electronic media have been strongly politicised. The collapse of their independence already started in 1993 and became infamous during the Mečiar era in 1992-1998. The liberal government of Mikuláš Dzurinda attempted to reverse this negative development. Nevertheless, after all those years, these councils are still politically dependent. The former Prime Minister Robert Fico (2006-2010) openly acknowledged a political agreement on influence division: *'We said to each other in which proportion we would propose these candidates'*.<sup>111</sup> The Prime Minister meant by this an internal discussion among the then leaders of the coalition parties on the issue of selection and election of the media councils' members.

## **4. Media policy and democratic politics: an assessment**

The media landscape in Slovakia consists of a fully liberalised print and a regulated broadcast market. Formally independent supervisory bodies control public service media.

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<sup>111</sup> "Koalícia si delila médiá" [The Coalition has divided media], SME, 19/12/2007, available at: <http://www.sme.sk/c/3643114/Koalicia-si-delila-media.html> (last visited on 23/10/2010).

Along with democratisation and liberalisation, the media landscape has been shaped by commercialisation. The relatively small size of the Slovak media market limits the media's financial resources for elaborate reporting and hence negatively impacts the quality of the media output.

Slovakia has attempted to adopt an idealised western European democracy media policy by creating a playing field for privately held media and the de-monopolisation and de-etatisation of public service media. This process has never been straightforward and has taken a few sharp ideological turns depending on the politicians in power. The media policy developments of the past twenty years in Slovakia could be characterised as lacking strategy, inconsistent, motivated by political conflicts and charged with politicians' personal animosities. Ironically, although Slovakia (as part of former Czechoslovakia) was the first country in CEE to introduce 'public service media', in general, the media policy decision makers lacked broader expertise as well as perspective.

Slovakia started its democratisation in Huntington's third wave,<sup>112</sup> as a part of the Czech and Slovak federation. The transition of Slovakia's media policy can be analysed in three different phases. The first phase (1989-1992), the abrupt dismantling of communist media, naive or *poetic* pluralisation,<sup>113</sup> explosion of freedom of speech, and media de-monopolisation was interrupted in 1993, when Slovakia declared independence. The country was acknowledged as a special democratic transition case, a defective democracy<sup>114</sup>, a late developer<sup>115</sup>, an awkward state<sup>116</sup>, or a reform laggard<sup>117</sup>, just to name a few of the academic literature labels. During this second phase (1992/1993 to 1998), the Slovak administration led by the authoritarian Prime Minister Vladimír Mečiar made controversial media policy decisions, contradictory to the ideals of liberal democracies. Those years of semi-democratic political regime, or illiberal democracy<sup>118</sup>, were followed by a phase of new democratic consolidation and media commercialisation, starting in 1998. Mečiar's era, however, had a tremendous impact on the legal, financial and professional environment of the mass media in Slovakia. The legacy of this short period contributed to higher levels of political parallelism, delayed media marketisation and froze the process of journalists' professionalisation.

After the split of Czechoslovakia, Slovakia inherited a mostly de-monopolised and pluralist printed press, except for the state controlled newswire agency TASR. Following a political request from Prime Minister Mečiar, TASR founded a completely

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<sup>112</sup> Harvard Professor Samuel Huntington defined waves of democratisation. They occur in specified period of time, when a significant group of nondemocratic countries choose to become democratic. S. Huntington, *The third wave: Democratization in the late twentieth century* (1991).

<sup>113</sup> K. Jakubowicz, *Business as usual: Continuity and change in Central and Eastern European media*, (2003), at p. 26.

<sup>114</sup> K. Henderson, "The Slovak Republic: Explaining defects in democracy", 11 *Democratization* 5 (2004) 133.

<sup>115</sup> World Bank, *World development report 2002: Building institutions for markets* (2001).

<sup>116</sup> H. Field, "Awkward states: EU enlargement and Slovakia, Croatia and Serbia", *Perspectives on European politics and society* (2000) 123.

<sup>117</sup> C. Gati, "If not democracy, what? Leaders, laggards and losers in the post-Communist World", in M. Mandelbaum (ed.), *Post-communism: Four perspectives* (1996) 168.

<sup>118</sup> F. Zakaria, "The rise of illiberal democracy", 76 *Foreign Affairs* 6 (1997) 22.

state owned and government biased daily newspaper *Slovenská republika*.<sup>119</sup> Mečiar also took over the popular youth daily *Smena*. However, its core editorial staff left it and established what is now one of the leading daily newspapers, *Sme*. Mečiar financed *Smena* using governmental subsidies until it went bankrupt within a year. Mečiar's administration did not hesitate to use economic instruments (e.g. state and political party advertising) or personal intimidation in the fight against a hostile press.<sup>120</sup> This delayed public service broadcast depoliticisation and in contrast to its neighbours, completely closed the market for independent nation-wide broadcasters until 1995/1996. During the Mečiar era, PSB news and current affairs programmes were heavily biased. The government tried to legitimise its propagandist actions by emphasizing the media's role in "building the new state".<sup>121</sup> The political control of the broadcast content was maintained both through extra-legal measures (delaying payment of approved subsidies) as well as through political nominations of senior PSB staff in news and current affairs departments and in supervisory bodies. However, it was difficult to find competent propagandist and manager at the same time. Consequently, there were eight personnel changes in the position of PSB Director General within eight years (1990-1998).<sup>122</sup>

Even today, each new administration (at least) considers senior leadership changes in public service media. Generally speaking, legislative reforms in Slovakia, similarly to other countries in CEE, have failed to replace 'state' or 'government' control of the PSB with 'public' control; indeed 'public' has been interpreted almost exclusively in terms of political representation.<sup>123</sup> Most Slovak politicians have never given up their attempts to secure favourable media coverage. However, to get their messages across, today they prefer to use modern publicity methods rather than direct political pressure or threats.

Since the Mečiar era, broadcast market conditions have changed tremendously. Growing competition and strong commercialisation have challenged public service media in Slovakia. This development seems to have been a helpful factor in gaining more autonomy from political influence. However, there is a sharp distinction between public television and public radio. The public service radio and the newswire TASR seem to be better adjusted to these new conditions than television, although both of them receive

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<sup>119</sup> Slovenská republika [Slovak Republic] was later sold to a private company with ties to Mečiar's HZDS. The last issue was published in November 2000.

<sup>120</sup> G. Šipoš, "Vlastníctvo médií a jeho dosah na nezávislosť a pluralitu médií. Prípadová štúdia: Slovensko" [Media ownership and its impact on media independence and pluralism. Case study: Slovakia], paper presented at the INEKO conference Media, Ownership and its impact on independence and pluralism, 29/10/2004, available at: [http://www.ineko.sk/files/konf29102004\\_sipos.pdf](http://www.ineko.sk/files/konf29102004_sipos.pdf) (last visited on 23/10/2010).

<sup>121</sup> As Andrew K. Milton suggests, this is a typical product of new democratically elected governments in the Czech and Slovak Republics. The roots of this explanation can be traced back to the First Czechoslovak Republic, where an 'institutional architecture was created' to help build the new state. See A. Milton, "Bound but not gagged: Media reform in democratic transitions", 34 *Comparative Political Studies* (2001) 439.

<sup>122</sup> See <http://www.stv.sk/stv/o-stv/riaditelia-slovenskej-televizie/> (last visited on 23/10/2010).

<sup>123</sup> A. Mungiu-Pippidi, "Complementary vision of economic and democratic philosophies on public TV, From state to public service. The failed reform of state television in Central Eastern Europe", in M. Sükösd and P. Bajomi-Lázár (eds), *Reinventing media, media policy reform in East - Central Europe* (2003) 43, at p. 43.

direct and indirect subsidies too. Their success in finding solution from budget cuts is that both institutions adjust their performance to their real budgets, not to the exaggerated income expectations and promises.

In general, the extensive commercialisation of television broadcasting has led to failures in providing not-for-profit based content. This has weakened the role of PSB in its normatively assigned role of democratic and civic cultivation. However, this PSB identity crisis is certainly not unique to Slovakia.<sup>124</sup>

The playing field for political parallelism in public service media has been left open through the supervisory councils' membership selection. Members of all four media regulatory boards – broadcasting, public radio, public television, and newswire<sup>125</sup> - are elected by parliament. As has been shown, albeit with some exceptions, the professional experience of the government's nominees after 1998 has risen and their political and ideological ties have been significantly weakened. Nevertheless, Fico's era again brought more political nominees to the councils. Their political ties were disclosed during the 2010 parliamentary election when some of them became candidates for the former coalition parties.<sup>126</sup>

Persistent content politicisation of (mainly) broadcast networks supported the existing political polarisation in the country and the (somewhat later) commercialisation as well as de-polarisation from 1998 onwards led to a declining interest in politics and political participation as well as in 'hard' news among citizens. Due to politically charged polarisation among journalism professionals and the fragile media market in 1992-1998, the establishment of professional journalism standards was outpaced by marketisation and commercialisation. Today, not only political and economic sympathies, but also the editors'/owners' interests impact the selection of news items. Entertainment and the pursuit of increased market share have become the dominant functions in the majority of the media. The evidence can be seen in the relatively stable circulation of tabloid daily papers in contrast to the decreasing circulation of the mainstream broadsheet papers.

The legacy of Mečiar's era also changed the way of creating media content. Karol Jakubowicz made a general observation in CEE countries and stated that the journalists tend to seek leadership, guardianship and prefer conviction-driven journalism.<sup>127</sup> In Slovakia, this tendency was in many cases intensified. The political divisions, or rather divisions based on a different approach to liberal democracy itself, together with confrontational attitudes of the political elites, were mirrored in journalists' work. As one journalist claimed in an interview almost ten years after Mečiar's era, '*natural*

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<sup>124</sup> A. Wyka, "In search of the East Central European media model – The italianization model? A comparative perspective on the East Central European and South European media systems", in M. Glowacki, B. Ostrowska-Dobek (eds), *Comparing media systems in Central Europe. Between commercialization and politicization* (2008) 55.

<sup>125</sup> Newswire TASR was only changed to a public service agency in 2008. Until then, it was financially and strategically controlled by the government through the Ministry of Culture.

<sup>126</sup> See "Mediálny výbor nepodporil odvolanie členov Rozhlasovej rady" [The Media Committee did not support withdrawal of the Radio Council members], *Medialne.sk*, 10/09/2010, available at: <http://medialne.etrend.sk/radia-spravy/medialny-vybor-nepodporil-odvolanie-clenov-rozhlasovej-rady-3.html> (last visited on 23/10/2010).

<sup>127</sup> Jakubowicz, *Rude awakening*.

*developments in the field stopped because journalists did politics*'.<sup>128</sup> The positive influence of the media on citizens' political participation, together with the campaign of nongovernmental organizations, was so strong that the election turnout in 1998 was the second highest in Slovak history<sup>129</sup>. This high turnout has not been repeated and probably never will be. The canvassing journalism against the government in power disappeared, but positive information about any government policy also became rare. Most journalists adopted a defensive occupational ideology and it has become fashionable to blame the government and its members for all the failures of society.

With the entry of foreign investment and resulting access to additional resources, this situation might have changed, but the parallel influx of tabloid journalism and commercialisation prevented journalists from consolidating their profession and establishing unified codes of conduct. Journalists' salaries are only twenty-two percent above the national average and that this is in many cases far below their expectations.<sup>130</sup> Moreover, there are almost no labour guarantees not to mention cheap competition from young students. In this environment, representatives of the business and political sectors use various techniques of soft corruption, such as foreign trips, special treats or small presents for journalists in exchange for positive media coverage. Due to the lack of transparency in ownership structures, it has become extremely difficult for a regular audience to distinguish vested interests from independent coverage.

The third and so far final phase of media policy development in Slovakia followed the 1998 election of the reformist government of Prime Minister Mikuláš Dzurinda. The main goal of his coalition government was to consolidate democracy and speed up Slovakia's accession to the European Union and NATO. The administration had to adjust to EU regulations in many policy areas and these adjustments included some changes in media regulation. From the point of view of democratic politics, following Slovakia's EU accession in 2004, the media adopted a trend of more or less general criticism. This has contributed to the dominance of negative reporting – a typical media system of reporting. However, the problem is that even in quality media, regular political disagreements are often reported as sensations and serious policy changes typically do not make it through the editors' filters. The tabloidisation of political coverage in the media can be considered as one of the factors contributing to the decreased political participation and political disinterest of the general public in Slovakia in the early 2000s.

Dzurinda's government, just like its predecessors, did not have a media policy strategy. There was an intention to draft new media policies,<sup>131</sup> but Dzurinda's government never fulfilled this promise. Furthermore, the government did not manage to

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<sup>128</sup> L. Waschková- Císařová, "Report on news cultures in Slovakia", unpublished report, Project EMEDIATE (2007).

<sup>129</sup> In the parliamentary election of 1998 voter turnout was 84,12% of the registered voters. Higher turnout was achieved only in the first democratic elections in 1990.

<sup>130</sup> The national average monthly salary in the 1st quarter 2010 was 725 euro. According to the latest data of the Professional Salary Monitor Mercedes the average monthly salary of a journalist in Slovakia was 889 euro. The salary range of the survey respondents, who were looking for a job, was 608 – 1142 euro.

<sup>131</sup> M. Šmatlák, "Komentár k návrhu Deklarácie o ochrane a zabezpečení rozvoja mediálneho prostredia" [Comments on the draft of the Declaration on the protection and security of media environment development], 45 Otázky žurnalistiky No. 1-2 (2002) 112, at p. 111-112.

introduce digital broadcasting or transform the state owned and poorly managed newswire agency TASR. However, it passed new laws on public service broadcasting and public service radio prepared by the Ministry of Culture in 2003 and 2004 respectively.

The governing period of the two Dzurinda administrations did not bring major changes to the media environment, but manipulation of the press disappeared. The only significant state intervention into public service media content was the official awareness campaign about the EU accession in 2004, which was co-financed by the European Commission. Generally speaking, Dzurinda's administration improved the government's communication with the media. It started to publish all government proposals online and provided explanatory media kits for key government decisions.

In 2006, the new Prime Minister Robert Fico ended this atmosphere of cooperation (1998-2002) and tolerance (2002-2006) between the government and the media. Robert Fico was personally hostile and rude to journalists and his government was met by a furious press and angry print media publishers. Nevertheless, it was his government that introduced a new media policy. This included radical changes in the indirect regulation of content of the printed press, a push for broadcast digitalisation and the transformation of the TASR newswire service. With the exception of the law concerning TASR, the new regulations put some limits on the press and constrained market access for new broadcasting players.

The Press Law has been strongly criticised by many journalists, publishers, and international organisations. Critics were mostly concerned with the vague formulations and strict regulation of the right to reply to any statement of fact that affected one's integrity, dignity or privacy.<sup>132</sup> This has caused a rise in self-censorship (as put by critics) or higher levels of fact-checking (as put by supporters) in print outlets. The media also spend more on lawyers, who must decide if the conditions for a published reply are met. Within the first ten months of the new regulations, the three main broadsheet newspapers received over one hundred requests.<sup>133</sup> However, only a handful of them were actually printed.

During Fico's government, the conflict between politics and the media entered Slovak courtrooms at an intense level. A growing number of politicians filed civil charges against the media and its publishers. Even more importantly, many politicians requested high compensation payments.<sup>134</sup> The deputy Director of the International Press Institute Alison Bethel McKenzie, harshly criticised the growing number of libel and defamation lawsuits in Slovakia: *'We are concerned at the repeated use, in Slovakia, of civil defamation cases, accompanied by disproportionate fines targeting the media... Such a trend creates an environment in which independent media may feel pressured and*

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<sup>132</sup> The Law introduced three forms of reactions: the right to reply, the right of correction and the right of supplemental information.

<sup>133</sup> Ondrášik, "The Slovak press law: History and its impact on free media".

<sup>134</sup> In one case in May 2010, the Superior Court's president, Štefan Harabín, threatened to sue two media outlets (Daily *Pravda* and *Radio Expres*) for defamation and requested 400,000 EUR. The charge was based on a claim that the remodelled bathroom in the president's office cost over 33,700 EUR. The president argued that the published price referred to the cost of the renovation of the entire office.

*intimidated, and acts as a restriction on investigative reporting.*<sup>135</sup> The controversy of these cases is typically a product of an awkward legal interpretation rather than insufficiency in the formal protection of journalists. Again, this is further evidence of the outdated education of (even younger) judges and legal practice traditions of courts in CEE.<sup>136</sup> Fortunately, numerous libel and defamation cases have failed in higher courts. The threat of a civil lawsuit, but possibly also of criminal charges, however, has taken a toll on media freedom in Slovakia.

Finally, there seems to be a growing trend of association between the media and political clientelism in Slovakia.<sup>137</sup> A tradition of advocacy, the instrumentalisation of privately owned media, the politicisation of PBS and broadcasting regulation, the limited development of journalism and high corruption levels<sup>138</sup> are all present in Slovakia and constitute a harmful trend for a democratic media system.<sup>139</sup>

It has been twenty one years since the fall of communism and the rebirth of a free and independent media. The present media landscape consists of both commercial as well as partially transformed public service media. Slovakia aspired to adopt the western European ideal and elusive public service media model, but this proved to be difficult due to concurrent global trends of commercialisation and media liberalisation. Yet just as in the media in CEE, Western European mass media have been hugely impacted by commercialisation and the rise of sensational journalism. Non-commercial public service broadcasting seems to be challenged by these market and technological developments. De-politicisation of PSB seems to be by and large an impossible ideal even in Western Europe.<sup>140</sup> Yet, in Slovakia, the financial situation of PSB is critical. At the time of writing, the senior management forecast and then abruptly denied PSB's early financial collapse. The new country's leadership has announced that it has finally found long-term solutions for public media policy.<sup>141</sup> The new Prime Minister Iveta Radičová has already promised to change the controversial Press Law and stressed the importance of moral self-censorship by journalists.<sup>142</sup> The Minister of Culture has announced that both Slovak

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<sup>135</sup> N. Jayarajan, "Slovakian Supreme Court president and former justice Minister sues radio station for damage to reputation", 7/05/2010, available at: <http://www.freemedia.at/site-services/singleview-master/4929/> (last visited on 23/10/2010).

<sup>136</sup> I. C. Kaminiski, "Applying western media law standards in East Central Europe, in M. Sükösd and P. Bajomi-Lázár (eds) *Reinventing media, media policy reform in East - Central Europe* (2003) 67.

<sup>137</sup> D. C. Hallin, S. Papathanassopoulos, "Political clientelism and the media: Southern Europe and Latin America in comparative perspective", 24 *Media, Culture and Society* (2002) 175.

<sup>138</sup> Slovakia in 47<sup>th</sup> place, see NationMaster.com, "Government statistics, Corruption by country", available at: [http://www.nationmaster.com/graph/gov\\_cor-government-corruption](http://www.nationmaster.com/graph/gov_cor-government-corruption) (last visited on 23/10/2010).

<sup>139</sup> K. Jakubowicz, "Finding the right place on the map: Prospects for PBS in post-communist countries", in K. Jakubowicz and M. Sükösd (eds), *Finding the right place on the map, Central and Eastern European media change in a global perspective* (2009), at p. 111.

<sup>140</sup> Mungiu-Pippidi, "Complementary vision of economic and democratic philosophies on public TV, From state to public service. The failed reform of state television in Central Eastern Europe", 31-62.

<sup>141</sup> "Krajcer má riešenie pre STV, chce rokovanie koalície" [Krajcer has a solution for STV, he wants negotiations of the coalition], SME, 7/10/2010, available at: <http://ekonomika.sme.sk/c/5582646/krajcer-ma-riesenie-pre-stv-chce-rokovanie-koalicie.html> (last visited on 23/10/2010).

<sup>142</sup> M. Terenzani – Stankova, "Slovakia to get luckier with its press code" *Slovak Spectator*, 20/09/2010, available at: [http://spectator.sme.sk/articles/view/40152/2/slovakia\\_to\\_get\\_luckier\\_with\\_its\\_press\\_code.html](http://spectator.sme.sk/articles/view/40152/2/slovakia_to_get_luckier_with_its_press_code.html) (last visited on 23/10/2010).

Television and Slovak Radio will merge and their number of channels will be cut down. This decision should, theoretically, at least, offer a solution to the long-term financial problems of Slovak Television, as well as to the possible legal and practical difficulties in dismissing the current director of STV.

## 5. Conclusion

If Central and Eastern Europe has been an exciting social laboratory for the rebirth of liberal democracy in the 1990s, then Slovakia has become one of its most challenging cases. It started its democratic path together with all other central European *third wave* countries in 1989, fell back to the semi- or illiberal democracy of national populism in 1992-1998, started a new phase of liberal democracy in 1998, and risked the corrupted manners of nationalist politicians again in 2006-2010. There has never been an overall political consensus on the role of the media in a democratic society, especially on the merits of public service media, and all changes in media policy have reflected the values and principles of those who drafted them. Slovakia has a fully liberalised print and fairly, though not sufficiently (at practical level), regulated broadcast market, a network of relatively independent public service media and decent media freedom assessments. As demonstrated in previous sections, the issues of the Slovak case are linked to previous political parallelism, current malicious court rulings against the media, journalist fragmentation, and growing pressure from commercialisation and vested interests.

Long-term political parallelism used to be the key issue for Slovak media development. If we look at the possible levels and forms of political vs. media dependency, as defined by Hallin and Mancini,<sup>143</sup> in Slovakia we can identify all of these. Media content used to be heavily influenced by the politicians, especially in public service broadcasting. Media personnel tend to be active in political life and the career paths of journalists are traditionally shaped by their political affiliations. Professional movement between journalism and political public relations is also common.<sup>144</sup> Another sign of political parallelism in Slovakia used to be the partisanship of media audiences. This polarisation dates back to the Mečiar government, when the media were clearly divided along ideological lines and their support or opposition to the government. The governments' attempts to manipulate coverage are notoriously linked to the public service broadcaster *Slovenská televízia* and its news programming. Complete editorial independence of PSB in Slovakia will require changes in the supervisory council selection procedures and the creation of a new financing framework.

More recently and importantly, the courts seem to be increasingly impacting press freedom in Slovakia. The fact that in 2009 alone, the media were ordered to pay over EUR 430,000 to Slovak politicians can mean only one of two things: either the journalists are extremely unprofessional or the politicians demand outrageous compensation which the courts approve. Numerous controversial rulings seem to suggest that the latter is more likely correct.

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<sup>143</sup> D. C. and P. Mancini, *Comparing media systems. Three models of media and politics* (2004), at p. 26.

<sup>144</sup> Just recently, the columnist for *Sme* and former controversial editor-in-chief of economic weekly *Trend*, Rado Baťo, has become a spokesperson for the new government.

Generally, the politicians' choice to go after a medium is dependent on their political party culture and personal style. Governing politicians of the last four years (2006-2010) used civil lawsuits extensively. This behaviour has created an impression that courtrooms can be used for content regulation, exorbitant compensation requests and publicity stunts. Obviously, the issue here is not the existing law. The controversy arises mostly over the awkward interpretation and relatively weak protection of the defendants which is also related to illiberal (continental) interpretation of freedom of speech..

A serious issue for Slovak journalism has also been its lower professionalisation level. The autonomy of journalists is weak, professional norms are *de facto* not required and public service orientation has become obscure. As Liehm explained, our society found itself in a moral vacuum after 1989.<sup>145</sup> And this vacuum also applied to journalism.<sup>146</sup> Furthermore, this moral vacuum was replaced by immoral market pressures. Contrary to general belief, the quality of journalism does not result from the (correctly identified) low quality of higher education in Slovakia in general and in journalism in particular. It is the primary market that determines the quality of journalism in Slovakia in the private sector and, to a large degree, politics in the public sector.

Additionally, Slovakia has suffered from the strong politicisation of the public sphere. Thus, before journalists were able to formally professionalise, they would become strongly polarised. To make things even more challenging, after 1998, when polarisation weakened and the possibility of professionalisation re-emerged, media owners were already engaged in a new fight, that being the fight for increased market share and lower production costs. The political pressures from the past were substituted by these new economic pressures and numerous studies show how media commercialisation has impacted on the public sphere. As Hallin and Mancini put it, "*commercialisation is the most powerful force for homogenisation and globalisation.*"<sup>147</sup>

In line with global trends, the aforementioned commercialisation also impacted media content in Slovakia. This trend has been especially significant in television broadcasting. Substance and issue-focused news programmes have been superseded by new formats covering personalised conflicts, crimes and showbusiness. This shift has already been linked to citizens' growing cynicism regarding politics and politicians,<sup>148</sup> which seems to be happening in Slovakia too.<sup>149</sup> However, trust in politics and politicians

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<sup>145</sup> A. Liehm, "The role of culture under the communist and post-communist eras", in H. Garner (ed.), *Central and Southeastern Europe in transition*, (2000), at pp. 43-47.

<sup>146</sup> E. Lauk, "How will it all unfold? Media system and journalism cultures in post-communist countries", in K. Jakubowicz and M. Sükösd (eds), *Finding the right place on the map, Central and Eastern European media change in a global perspective* (2009) 193.

<sup>147</sup> D.C. Hallin and P. Mancini, "Americanization, globalization and secularization", in F. Esser and B.S. Pfetsch, *Comparing political communication. Theories, cases, and challenges* (2004), at pp. 38 – 44.

<sup>148</sup> D. Swanson, "Transnational trends in political communication. Conventional views and new realities" in F. Esser and B. Pfetsch, *Comparing political communication. Theories, cases, and challenges* (2004), at pp. 45 – 63.

<sup>149</sup> "Prieskum: Dôvera vo vlády a parlamenty v Európe prudko klesá" [Survey: Confidence in governments and parliaments in Europe has plummeted], SME, 20/05/2010, available at: <http://www.sme.sk/c/5385051/prieskum-dovera-vo-vlady-a-parlamenty-v-europe-prudko-klesa.html> (last visited on 23/10/2010), and O. Gyárfášová and M. Velšic, "Šesť neusporiadaných téz k problému slovenská verejnosť a ekonomické reformy" [Six random theses on the problem of the Slovak public and

seems to be related in part to often exaggerated expectations towards a new government.<sup>150</sup>

The influence of media owners, politicians (and their utilisation of public service media), high levels of corruption, unreasonably high compensations in libel and defamation cases and often bizarre justifications of courts' and regulators' decisions and rulings, journalists' professional fragmentation, and global commercial trends seem to be the key determinants for the future of media policy and democracy in Slovakia.

In spite of all the criticisms and drawbacks, the Slovak press, with all its weaknesses, has been one of the strongest players in the democratisation process in Slovakia since 1989. Through sometimes rough interactions with the public as well as the political sphere, beyond any doubt it has helped Slovakia to become a democratic transition success story.

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economic reforms], available at [http://www.ineko.sk/files/Slovenska\\_verejnost\\_a\\_transformacia.pdf](http://www.ineko.sk/files/Slovenska_verejnost_a_transformacia.pdf) (last visited on 23/10/2010).

<sup>150</sup> European Commission, Directorate General Communication, Eurobarometer 68, available at: [http://ec.europa.eu/public\\_opinion/archives/eb/eb68/eb68\\_en.htm](http://ec.europa.eu/public_opinion/archives/eb/eb68/eb68_en.htm) (last visited on 23/10/2010).

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