

CIVIL SOCIETY AND PUBLIC SERVICE BROADCASTING IN CENTRAL AND EASTERN EUROPE

KAROL
JAKUBOWICZ

When the Council of Europe convened the 4th European Ministerial Conference on Mass Media in Prague in 1994, the issue of public service broadcasting was high on the agenda, alongside that of journalistic freedoms and human rights¹. The Council of Europe sought in this way to kill two birds with one stone. First, to deliver to the emerging democracies of Central and Eastern Europe the message of how the media should operate in a democratic society. And second — to remind Western European countries of the very same thing.

In Western European countries, public service broadcasting (which has taken on many forms dictated by the social, cultural and political circumstances of each country; Smith 1979) has long faced major challenges related to the development of commercial broadcasting and new technologies which threaten to undermine its legitimacy (McCabe, Stewart 1986, Syvertsen 1992; Curran 1994) and even to put in question the need for it to continue in existence (ACT n.d.). The response from various quarters has been either to reassert the traditional remit of public-service broadcasting (as in the European Broadcasting Union's 1993 document "Public Service Broadcasting: Europe's Opportunity"²), or to seek to re-define that remit and establish ways of protecting it (see, e.g., Blumler 1992).

An important debate from this point of view has taken place in the United Kingdom during the preparations for the renewal of the BBC's Royal Charter (BBC 1992; BBC 1993; BBC 1994). While upholding the traditional concept of public-service broadcasting, it sought to revise and update it in the light of the emergence of the technologies and the need for greater economic effectiveness and accountability among public service broadcasters. It also stressed the commercial potential of the

Karol Jakubowicz is the President of the Board of Directors of the Polish Television in Warsaw.

BBC which

should be able to evolve into an international multi-media enterprise, building on its present commercial services for audiences in this country and overseas. These ventures should be separate from its public services ... The BBC should expand its commercial activities in the United Kingdom and overseas, and should continue to be able to join with private sector partners to achieve this. Its international services should contribute to improving the United Kingdom's competitiveness in world markets for audio-visual services (BBC 1994, passim).

The development of new information and communication technologies, with their great profusion of highly diversified television content available to most viewers, is seen by some as eliminating the need for public service broadcasting. Others point out that these new technologies make the need for the functions it performs all the more urgent. This is because these technologies have the potential not only to promote but also to undermine the foundations of civil society by making possible the creation of individual symbolic universes — by and for each person separately (Winsbury 1994, 30). This could potentially fragment society and destroy the sense of community and shared knowledge and experience that is vital to democracy (Brown 1994, Firestone 1994-5).

The shared public world could diminish. Multiple, unique and potentially unshared private worlds based on various interests or idiosyncrasies could emerge and dominate ... If readers and viewers delete certain kinds of political news from their personal profiles during non-election periods, how will they remain acquainted with ongoing public political issues? And what will alert them to the need to re-acquaint themselves and re-select domestic political news at election times or at times of crisis? ... These emerging systems raise important questions about how shared social and political frameworks can be established in complex pluralistic societies. How will it be possible to conduct social and political debate in this new environment (Firestone 1994-5, 22)?

Civil society has been traditionally mediated by professional and democratic gatekeepers — whether they were journalists and editors, political parties, teachers, etc. — who guarded the flow of information to the citizens, helped organise civic discourse and opinion, and serviced the process of decision-making. They were a force of cohesion in society. Today, the need for them can be even greater. Several authors point to the role of broadcasters in this respect: "if the public sphere cannot be maintained by the commercial media, its preservation could devolve to public service broadcasters" (White 1994, 22). The International Federation of Journalists stresses the crucial importance of public service broadcasting: "In a world where the electronic media is increasingly dominated by international channels and producers, it is vital to continue with national public service radio and television systems. The continuation of production of programmes of high quality with regard to ethics, responsibility, journalistic versatility and quality must be maintained" (IFJ 1995, 14).

John Keane proposes a different understanding of the public-service role of the media, including the new technologies — as mechanisms for keeping the state accountable and keeping open channels between the state and social institutions.

There is need of ... a new constitutional settlement which ensures that political power is held permanently accountable to its citizens ... It is also the reason why

the undermining of both state power and market power from below requires the development of a dense network or "heterarchy" of communication media which are controlled neither by the State nor by commercial markets. Publicly funded, non-profit and legally guaranteed institutions of civil society, some of them run voluntarily and held directly accountable to their audiences through democratic procedures, are an essential ingredient of a revised public service model (Keane 1994, 10; see also Keane 1991).

Keane believes that neither traditional public service media nor commercial media can truly serve civil society. He sees a need for a fundamental revision of the public service model into a plurality of non-state (and indeed non-market) media of communication which serve as the primary means of communication for citizens situated within a pluralistic civil society. This requires the regulation and maximum feasible reduction of private corporate power over the means of communication. The maximum feasible decommodification and "re-embedding" of communication media in the social life of civil society is a vital condition of freedom from state and market censorship.

Drawing on the original democratic media system proposed by Raymond and codified by Denis McQuail (1994) as the democratic-participant media theory, Keane proposes a system of widespread public interventionism in the media market-place which should always attempt to "level-up" rather than "level-down" citizens' non-market powers of communication. It should, in his view, seek the creation of a genuine variety of media which enable little people in big societies to send and receive a variety of opinions in a variety of ways. It should aim to break down monopolies, lift restrictions upon particular audience choices and to popularise the view that the media of communication are a public good, not a privately appropriable commodity whose primary function is to produce and circulate corporate speech for profit. It presupposes the establishment of media enterprise boards to fund alternative ownership of divested media, and to support and subsidise public access to the media, and media access to the market, by use of public funds.

This set of views on the nature of the communication system that can best serve civil society is in line with Ralph Dahrendorf's definition of the operational core of that concept:

*This consists ... of a set of legitimate claims which can be described as civic rights. Civic rights provide the compass which helps us steer the right course between the Scylla of the state with all its competence of power, and the Charybdis of the corporate cartel of organizations and institutions which in some circumstances can be equally dangerous to freedom. As a set of legitimate claims, civic rights create a certain public situation: the protection of the people's **right to participation** against government interference on the one hand and the variable impact of the market on the other.... Without civic rights, there can be no civil society ... the creation of civil society involves also the introduction of civic rights (Dahrendorf 1994, 236; emphasis added).*

If the right to participation is at the core of civil society, then in the media field it must be understood as the right to communicate — and this is precisely what Keane insists on as a fundamental tenet of the new system of public service media serving civil society.

Civil Society and Public Service Broadcasting in Central and Eastern Europe: Growing Together?

These views are recalled here because both the goal of building civil society and that of turning the former state sector of broadcasting into a public-service system form part, at different levels, of the general programme of transformation in Central and Eastern Europe. As Dina Iordanova's comment below suggests, the two processes are interrelated:

Civil society in Bulgaria is an imaginary construct barely able to counteract restoration of state monopoly or a possible take-over by commercial enterprises. The concept of public service broadcasting is more than questionable in a situation when all parliamentary forces are preoccupied with the "usage" of TV. Contrary to all democratic expectations, politicians are increasingly succumbing to the temptation to try to control state owned radio and TV (Iordanova 1995, 21).

Turning the concept of civil society into reality has not been easy, however. Geremek notes that the concept of civil society as a blueprint for resistance against the Communist system (Ogrodziński 1991) made its appearance in Poland at the turn of the eighties in connection with the birth of Solidarity, but the project of creating it can have a chance only when the basic job of developing democratic institutions has been well advanced:

The overthrow of Communism and recovery of freedom is not tantamount to the rebirth of a democratic order. Democracy is created in a long process of development ... It is a gradual process of the maturation of democracy and maturation of people to operate in a democracy ... Ten years on, civil society ... can find a foundation only in the long and difficult endeavour to create its own institutions, to put ethical values into practice, to involve the widest possible public in public life. The main problem today is to create the democratic checks and balances, political education in the spirit of respect for the law, animating the activity of the people. ... Civil society creates the chance to resolve the contradiction between the State and Society and to enable citizens to become active in public life (Geremek 1994, passim).

Geremek's views are shared by Dahrendorf who points out that civil society must, in addition to a requisite legal and political framework, have a foundation in a mature democracy and a mature political culture in which "the legitimate claims which can be described as civic rights" will be respected. It can be built only if there is widespread determination on the part of society to demand respect for, and observance of, individual civic rights, and popular will to hold to account anyone, or any institution, which violates them. The determination and will mentioned above can arise only where there is some degree of realistic hope that this battle for civic rights and civil society can be won.

Geremek's view that the conditions needed for the emergence of civil society have not yet been created in Poland is shared by other authors. Kurczewska, Staszyńska and Bajor (1993) list a number of barriers to the emergence of civil society that are either exogenous (to do with the relationship between the state and society) or endogenous (stemming from the characteristics of society itself). They conclude that in Poland this has been prevented so far by the interrelationship between a weak state and

a weak society. Grabowska (1995) argues that an important factor in this regard has been what she calls the authoritarian rule of post-Solidarity governments (caused by the fact that the "post-Solidarity political elites underestimated society and overestimated themselves" — Grabowska 1995, 197). A review of the situation in other Central and Eastern European states (Góralczyk, Kostecki, Żukrowska, 1995) shows that elsewhere in the region, the situation is even less propitious for the birth of civil society.

As suggested by Iordanova, progress achieved in a particular country in developing democracy in general, and civil society in particular, determines the resolution of major dilemmas involved in remodelling broadcasting systems in Central and Eastern European countries today. The fundamental decisions to take concerning the shape of the public service system determine:

1. The system's placement between power centres and society (i.e., whether or not any attempt is made to ensure some degree of direct public participation in policy-making, management and oversight of public service broadcasters);
2. Its placement vis-à-vis the legislature, executive and the judiciary and relative placement between the different authorities within the branches of government (e.g., vis-à-vis the government and the president within the executive branch; vis-à-vis the lower and the upper chamber of parliament);
3. Its geographical structure, i.e. whether it continues the old centralised, capital-centred model or whether it is modified to come closer to, and become more integrated with, the rest of the country;
4. Its placement between the state and the market and its size and financial foundations in a competitive marketplace.

Particularly important here is the dilemma outlined in item No. 1. Depending on the nature of the decision taken, the system will:

- continue to be subordinated to power centres and thus fail to qualify as public service broadcasting which must by definition be autonomous;
- be situated closer to power centres than to society at large and take on the traditional form of public service broadcasting as a form of representative democracy which creates "participation [in public life] without involvement," distributes „communicative entitlements" selectively, and in which "power accrues to the representatives and not those whom they represent" (Scannell 1989);
- approximate Keane's vision of a direct, participatory communicative democracy (see also Jakubowicz 1994a);
- be commercialised.

Of the three possibilities regarding the placement of public service broadcasting between the power centres and society listed above, a system similar to the one proposed by Keane is least likely to be created. Though under the Communist system dissidents did theorise about the creation of this variety of public service media, practically no attempt was made to create it once the Communist system was overthrown (Jakubowicz 1994b). Talk of extensive public intervention into the media, or any other field of social life, sends shivers down the spine of most Central and Eastern Europeans, convinced, on the basis of long and painful experience, that such interventionism would not serve the public interest but narrow, sectoral political interests. Respective laws and regulations³ usually do no more than pay lip service to the idea of a civic sector in broadcasting even in the form of community stations, which could come

close to Keané's proposals for the media system of civil society.

The 1991 Czechoslovak Law on the Operation of Radio and Television Broadcasts says in Art. 20 that fines imposed for offences under the law "shall be purposefully used for the support of the broadcasting of licence holders [i.e., private broadcasters, K.J.], with priority being given to the needs of local broadcasts." The 1991 Czechoslovak Law requires cable operators to reserve free of charge one channel for the needs of local communities.

The Polish Broadcasting Act says in Art. 40 that the fee charged for the granting of a broadcasting licence is to be determined "taking into account the nature of particular broadcasting establishments and their programming." On this basis, the fees can be reduced for non-commercial stations.

The Slovenian Law on Mass Media says that non-commercial local media (which are "important for the citizens of Slovenia in exercising the right to be informed and for the preservation of Slovene national and cultural identity" — Art. 3) are to be financed partly from licence fees and from the state budget, as well as from advertising.

The 1995 Hungarian Act on Radio and Television Services provides for a category of "non-profit oriented broadcasters," defined as "broadcaster[s] who undertake to promote the causes of national, ethnic or other minority interests, and the interests of groups in a disadvantaged position, or who intend to serve as a forum for a residential or local community — provided that [they] recycle any (separately disclosed and accounted) profits generated by [their] broadcasting activity into the continuation and development of this broadcasting activity." Such broadcasters are eligible for financial support from a Broadcasting Fund established by the Act.

All this shows that the idea of introducing special regulations to facilitate access to the market for more than just public and straight commercial stations has found little real support in new broadcasting legislation.

New Broadcasting Structures

Below we will review the legal and administrative structures of newly created broadcasting institutions in Central and Eastern European countries with a view to ascertaining how the other dilemmas listed above have been resolved in practice. This will provide an indication of the progress made in creating public service broadcasting systems properly so called.

Issues covered under 1 and 2 are often resolved by the creation of a broadcasting regulatory authority. Decisions concerning its composition, method of appointment, measures taken (or not) to safeguard its stability and autonomy, its actual areas of competence, accountability for its actions etc. are highly indicative of the extent to which the whole system is being democratised.

In some cases, these authorities are created to oversee only the private sector. This usually means that there is no public, but only a state sector of broadcasting, with the former party-controlled national broadcaster now subordinated to a branch of government. Where the broadcasting regulatory authority also oversees public service broadcasters, that usually reflects a desire to insulate them against direct state or government influence and interference.

Table 1: Broadcasting Regulatory Authorities

	Exists or is planned	Oversees national broadcasters (state or public)
Albania	-	-
Bulgaria	-	-
Czech Rep.	Yes	Yes
Estonia	No ⁴	No
Hungary	Yes	Yes
Latvia	No	*
Lithuania	Yes	*
Poland	Yes	Yes
Russia	Yes	No
Romania	Yes	No
Slovakia	Yes	No
Slovenia	Yes	No
Ukraine	Yes	*

Note: - no broadcasting law or known draft
 N/A. no information available
 * does not apply (e.g. because there is no PSB in the country)
 Shaded areas represent provisions as laid down in draft laws.

The placement of a broadcasting regulator vis-à-vis the authorities of the state and branches of government is a reflection of their relative importance and the nature of the political system and system of government. In some cases, the nominating organ has the power to recall a member of the regulatory authority when displeased with his/her performance (this does not include recall because of illness, incapacity, criminal offence unrelated to membership in the authority, etc.), which seriously undercuts the authority's independence and stability.

As can be seen in Table 2, governments are usually excluded from the appointment of members of broadcasting authorities or from overseeing their work. The job is often shared between parliament and the President. Lithuania is the only country to have adopted a "socially representative" model where members are not chosen (delegated) by state authorities or politicians, but by various organisations (even if in this case they are representative mostly of the artistic community).

