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Audiovisual policy of Poland in the Context of the European Union Audiovisual Policy

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The article focuses on the attempts of Poland to bring its audiovisual policy in line with the European Union audiovisual policy, stated in the Convention on Transfrontier Television, the «Television without Frontiers» Directive, Audiovisual Media Services Directive.

Key words: audiovisual policy, the «Television without Frontiers» Directive, Audiovisual Media Services Directive.

Карпчук Наталія. Аудіовізуальна політика Польщі в контексті аудіовізуальної політики Європейського Союзу. Йдеться про спроби Польщі узгодити свою аудіовізуальну політику з нормами та правовими рамками Європейського Союзу, визначеними конвенцією «Про транскордонне телебачення», директивою «Телебачення без кордонів», директивою «Про аудіовізуальні та медіа-послуги».

Ключові слова: аудіовізуальна політика, директива «Телебачення без кордонів», директива «Про аудіовізуальні та медіа-послуги».

Карпчук Наталья. Аудиовизуальная политика Польши в контексте аудиовизуальной политики Европейского Союза. Рассматриваются попытки Польши согласовать свою аудиовизуальную политику с нормами и правовыми рамками Европейского Союза, которые определены конвенцией «О трансграничном телевидении», директивой «Телевидение без границ», директивой «О аудиовизуальных и медиа-услугах».

Ключевые слова: аудиовизуальная политика, директива «Телевидение без границ», директива «О аудиовизуальных и медиа-услугах».

The June 2007 European Council emphasised «the crucial importance of reinforcing communication with the European citizens, providing full and comprehensive information on the European Union and involving them in a permanent dialogue» [1]. In line with the Commission's White Paper on a European Communication policy [2], Plan D for Democracy, Dialogue and Debate [3] and Communicating Europe in Partnership [4], better use of the audiovisual media should aim at supplying information in a form that is attractive to users, promotes active European citizenship and contributes to the development of a European public sphere.

Before joining the EU, countries have to bring their national laws into line with EU rules, including – in the audiovisual field – the Audiovisual Media Services Directive. When they do so, they become eligible for funding under the MEDIA 2007 programme (covering the period 2007-13). Audiovisual policy involves big commercial interests and complex issues of cultural diversity, public service and social responsibility. The EU Commission stresses that audiovisual policy is formulated at national level by individual governments, the EU's role is to set some basic groundrules and guidelines in defence of common interests, like open EU markets and fair competition [5].

The Poland's audiovisual policy as well as the EU audiovisual policy in general are new research fields as they are mainly discussed and investigated by the European Commission and other respective institutions of the EU and Poland.

The aim of the paper is to analyse the Poland's efforts of bringing its audiovisual policy in line with the European Union audiovisual policy framework.

The audio-visual sector plays the crucial role in fostering the development of civil society, in particular in the new democracies of Central and Eastern Europe. Being the dominant mass medium, the specific responsibilities of the broadcasting media are to influence opinions and cultural identities through their information, education and entertainment programming. The countries of Central and Eastern Europe pass a difficult process of transforming the audio-visual sector from a state monopoly to a competitive industry, capable of expressing cultures and languages in their diversity, as well as enhancing the participation of citizens to democratic life at national and local levels.

The basic objectives for all national audio-visual policies in modern democracies are media independence and fair information, political pluralism, cultural identity and diversity, education objectives. In the European model of dual public and private broadcasting system, both public and private sectors should share all these objectives, taking into account the specific status and character of each operator. This implies that a minimum set of common standards must be applied to all broadcasters, irrespective of their public or private nature [6].

The existing European legal frameworks are the Convention of the Council of Europe on Transfrontier Television and the «Television without Frontiers» Directive. The aim of the Directive is the realisation of the Commission's basis goals, in particular ensuring the free movement of services between Member States whilst implementing the fundamental principle of freedom of speech in the sphere of electronic media. Audiovisual Media Services (AMS) Directive of 2010 establishes legal, regulatory and administrative provisions related to the provision and distribution of audiovisual media services.

However, formal regulation can be complemented by the operators' self-regulation; it can assist in the implementation of guidelines in areas such as journalistic ethics, advertising, protection of minors and parental guidance, representation of minorities. Representatives of the civil society (non-governmental, non-profit organisations representing citizens' interests independently of political parties) should be invited to contribute to the process of defining, implementing and monitoring public policies in the audiovisual media sector. Moreover, complaint mechanisms should also ensure easy access for citizens and further opportunities for the civil society to react to and interact with; the audiovisual media should be developed as well.

The basic acts regulating the activity of the audiovisual sector in Poland are the Act of 29 December 1992 on radio and television (as amended) and, issued on the basis thereof, the Regulation of the National Council of Radio and Television. Some particular issues are regulated in other legal acts such as the Act of 26 January 1984 (the Press Law), the Act of 16 April 1993 on counteracting unfair competition, the Act of 26 October 1982 on sober upbringing and counteracting alcoholism and the Act of 9 November 1995 on protection of health against tobacco and tobacco products.

Sharing all the goals of EU policy concerning the audiovisual sector, Poland will pay attention to the European requirements and to Polish cultural identity while creating Polish legal regulations in the process of harmonisation with the EU Directive «Television without frontiers». Poland accepts the objectives of this directive, specifically, the need to create a Single Market for production and distribution in the audiovisual sector and freedom of television transmission, while maintaining the responsibilities of the Member States as regards organization, financing and programme content.

Poland's policy in this sphere is in conformity with the essence of the directive, by which the provisions incorporated therein do not have any influence on the freedom of cultural development

in the Member States and on the preservation of cultural differences within the EU. Poland is convinced that the expansion of audiovisual policy to cover Poland and other countries of the region will enrich the programme range for receivers in all current and future Member States of the European Union and will support cultural differences within these countries. Pursuant to the above directive, Poland will maintain or introduce solutions which will ensure the efficient promotion of European production and consumer protection. It should be stressed that the present degree of harmonisation of Polish law with EU legislation concerning the said sphere is significant [7].

Since 1997 the Commission has estimated Poland's efforts in the sphere of audiovisual policy:

- in its Opinion of July 1997, the European Commission considered that, provided a sustained effort was made to adapt the legal framework, accompanied by the necessary structural adjustment of the industry, Poland should be able to meet EU requirements in the audiovisual sector in the medium term;
- the November 1998 Report generally confirmed this initial evaluation;
- the October 1999 Report stressed that progress made in this area was limited and emphasized worrying delays in some sectors;
- the November 2000 Report noted that significant progress had been made, although Polish legislation was not yet fully in line with the Community acquis;
- the November 2001 Report noted that little progress had been made in the audiovisual and cultural fields;
- the October 2002 Report noted that there had been no further legislative alignment in the audiovisual sector, and no progress had been made with regard to administrative capacity;
- the November 2003 Report concludes that Poland only partially complies with the obligations resulting from the accession negotiations in the audiovisual field. In particular, unless it takes rapid action to catch up on delays in amending the Broadcasting Act, there is a risk that it will not be able to implement the acquis by the date of accession. On the other side of the coin, Polish legislation is consistent with the acquis [8].

The Treaty of Accession was signed on 16 April 2003 and accession took place on 1 May 2004. In the context of the internal market, the audiovisual acquis is intended to ensure the provision and free movement of audiovisual services within the EU as well as the promotion of the European programme industry. The acquis is contained in the «Television without frontiers» Directive, which is applicable to all broadcasters regardless of mode of transmission (terrestrial, satellite, cable) or whether private or public, and lays down basic rules on transfrontier broadcasting. The main points are:

- to ensure the free movement of television broadcasts throughout Member States;
- to promote the production and distribution of European audiovisual products (by laying down a minimum proportion of broadcasting time for European products and those by independent producers);
- to set basic standards for television advertising;
- to provide for the protection of minors and allow the right of reply [9].

The European Association Agreement provides for cooperation in the promotion and modernisation of the audiovisual industry, and the harmonisation of regulatory aspects of audiovisual policy.

In the audiovisual sector adoption of the Law amending the Broadcasting Act in 2000 means that many aspects of Polish legislation are now in line with the acquis, but further amendments remain necessary with regard to jurisdiction, promotion of European and independent works, major events, the definition of European works, and the principle of capital liberalisation. New legislation is pending.

In October 2000 Poland ratified the Council of Europe Convention on Transfrontier Television. Administrative capacity is judged satisfactory overall, though Poland will need to strengthen the National Broadcasting Council in particular to monitor observance of the new rules (e. g. computer

equipment to monitor obligatory programme quotas). A Memorandum of Understanding providing for the participation of Poland in the Community programmes MEDIA Plus and Media Training was signed in June 2002, taking effect from 1 January 2002.

The Commission's 2003 report explains that Poland still needs to align its framework legislation (Broadcasting Act) on jurisdiction criteria, the definition of European works, certain aspects relating to the promotion of European and independent works, access to major events, and the principle of capital liberalisation. Administrative capacity for implementation of the audiovisual acquis is satisfactory overall, though the National Broadcasting Council needs to be strengthened in order to efficiently monitor observance of the new rules.

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