

Two Models of Public Service Broadcasting: Romanian and German

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Abstract: *The present study is based on the ideas debated at the Conference “Public Service Broadcasting – A cornerstone of democracy?”, organised by Konrad Adenauer Stiftung (KAS) – Media Programme South East Europe, at the European University Viadrina, Frankfurt/Oder, Germany, on the 1st and 2nd of December 2022. Presenting, in short, how things work in the Romanian and German Public Service Broadcasting – Radio and Television (PSB), focusing on their structure, way of funding, monitoring mechanism, I tried to see if it is possible to implement the German model of PSB in Romania, or just to take from it some solutions for improving the function of the Romanian PSB and getting it to a real independence from politics. The general conclusion of the study belongs to Professor Dr. Johannes Weberling from the Viadrina European University: “The German model of Public Service Broadcasting could hardly be implemented in other countries”.*

Keywords: *public service broadcasting, public radio and television, Konrad Adenauer Stiftung, KAS, Viadrina European University, broadcasting laws*

Summary of reasons

In approaching the theme, with reference to the Romanian model, I started from the crisis of trust in institutions, but also from the crisis of trust in the mass-media.

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As a result of the crisis of trust in any source of authority, the public space, designated especially by the media, is increasingly fragmented and politicized.

Politicization is more obvious in the activity of the Public Radio and Television Services, because of their mode of operation, based on a legislation that favors political interference in editorial activity, and postpones, *sine die*, the long-awaited independence from the political control.

The Romanian Public Services Broadcasting. SRR (Radio Romania) and SRTVR (Romanian Television)

- Structure
- Way of funding
- Monitoring mechanism
- Current problems
- Solutions / recommendations

Public service media in Romania: the context

Public radio in Romania was established in 1928, and public television in 1956. During the 45 years of Communist rule, the regime kept both under the absolute control of the ruling class. After the fall of Communism, in Eastern Europe in 1989, public radio and television had to change radically, almost overnight: first the schedule and content of productions and then technology and regulations. But above all, both public radio and television were supposed to escape from political control – an ideal that has not been fulfilled to date. – it is written at the beginning of the Report “Public Service Media in Romania: The Battle for Independence from Politics” (Surugiu & Ionescu, 2019, p. 191)

Public service broadcasting – general structure

The structure of the Media Public Service is tightly linked to the former communist regime. Shortly after the launch of radio and television service, in 1956, the two became part of the same corporation: “The Romanian Radio and Television Corporation” or *Societatea Română de Radioteleviziune, SRRTV*. After the fall of communism, they split again when the national Parliament approved “Law No 41/1994”, establishing two separate institutions: “Radio Romania” (RR) and “Romanian Television” (TVR) (Legea nr. 41 din 17 iunie 1994).

Law 41/1994, and Law on Broadcasting 504/2002

Since 1994, the functioning of public service media in Romania is governed by the Law No 41/1994. It is the act that currently regulates the organization of public radio and television in Romania. In addition, broadcasting is also regulated by Law No 504/2002 and other decisions/regulations issued by the National Audio-visual Council of Romania

(CNA), which was established in 1992 (Legea nr. 504 din 11 iulie 2002). Radio Romania (RR) and Romanian Television (TVR) operate under the control of Parliament. According to the law, the RR and TVR are responsible for information, education and entertainment and, at the same time, pursuing an independent editorial policy. Each year, the institutions submit an annual report on activity to the Parliament.

Organizational structure

According to the law of functioning, the radio and the television service have the same organisational structure, operating according to similar management rules and procedures. They are led by:

- ***President and Director-General*** (PDG) (The Romanian Law uses the French denomination: *Président Directeur Général*, PDG).
- ***Board of Trustees (BT)*** (*Council of Administration*)
- ***Board of Directors***
- ***Regional Boards of Directors***

The President and Director-General (PDG) is elected by a simple majority among the members of the Board of Trustees.

Board of Trustees: 13 members

They are nominated as follows:

- One member is nominated by the President of Romania,
- One member by the Romanian government,
- Eight members by the political parties represented in Parliament according to the quota of MPs,
- Two members are elected by the journalists working in the Public Radio and Public Television, and
- One member is designated by the parliamentary groups representing national minorities.

The Board of Trustees and the PDG are appointed for a term of 4 years.

Responsibilities/functions of the leadership

The PDG and the Board of Trustees are tasked with developing the general framework of functioning of the institution:

- broad policies
- main objectives
- business and organisational strategic planning
- programming strategies

The Board of Directors and the Regional Board of Directors are appointed by the PDG “on the basis of a competition”. They are the team of the PDG and serve an executive function.

Way of funding

The funding model of the public radio and TV suffered a major change in 2017 when the license / subscription fee was eliminated. It practically moved from household subscription + advertising + a minor state subsidy to 100% subsidy from the state budget + advertising. Until 2017, the budget of television and radio was based on: subscriptions, advertising, and the subsidies from the state budget, the latest source being offered only to cover the broadcast costs and to support special projects/broadcast for the Romanian diaspora. Now, the subsidy is given by the state, and is calculated at the level of the number of citizens in Romania.

Monitoring mechanism

1. The Control of Parliament

Radio Romania (RR) and Romanian Television (TVR) operate under the control of Parliament. According to the law, the RR and TVR are responsible for information, education and entertainment and, at the same time, pursuing an independent editorial policy. Each year, the institutions submit an annual report on activity to the Parliament. The Parliament could approve it, and in this case the leadership in charge continue to rule these institutions. Or, the Parliament could reject the annual report, usually after the elections, when the political configuration of this institution has been changed, and the new ruling political forces want to be appointed a new leadership at the public media services, able to sustain the new political configuration.

2. CNA (National Audio-visual Council)

Another monitoring mechanism is exercised by CNA, an institution that are working according to the Law No 504/2002. Its mission is to be in the service of the public interest: to promote social and politic pluralism, cultural diversity etc. It also monitors the audio-visual advertising, teleshopping, the programs during the electoral campaigns. CNA also releases radio and TV licences. According to the law, CNA is focusing on the content that is broadcast, and monitors all the broadcasting channels in order to respect the political equilibrium and the social values. It is a “legal watchdog” of the media. In summer of 2022, the audio-visual law has suffered a modification which targets the consumers in the sense that they are to be protected faced with the materials that are considered harmful: instigating to violence, hate, terrorism, racism, any kind of discrimination. The broadcasting consumer are also to be protected from the disinformation and misinformation.

The way of appointing the CNA members

The Council Director of the CNA has 11 members. They are appointed by the Romanian Parliament, as they are proposed by the following institutions:

- 3 members, by Senate (the Superior Chamber of Parliament)

- 3 members, by Chamber of Deputies
- 2 members, by the President of Romania
- 3 members, by the Executive (Government)

They are appointed for 6 years.

Current problems with the Romanian Public Broadcasting

1. The political interference in the editorial content caused by **the way of appointment the leadership structures** (top management), stated by the operating law.

Many media analysts pointed out that the influence of politics on public radio and television is ensured by the political appointment of the Director-General (PDG) and the Board of Trustees (BT). The PDG is effectively selected by the ruling parties and is either a party member or someone close to power, have affinities with the power and willing to do the government's bidding (to serve its interests). The Board of Trustees consists of 13 members: 11 members are nominated by political parties or institutions, and two members elected by radio and television employees. The Board of Trustees are mainly representatives of parliamentary political parties, appointed according to an algorithm in which the civil society is not (or poorly) represented. The top management structure exercises control through subordinate leadership levels, mostly politicized, even if not stated.

Concentration of power creates room enough for abuses and corruption

According to Article 28 of Law 41/1994, the general director applies the decisions of the Board of Trustees. At the same time, he/she has the prerogative to validate, as well as to dismiss, heads of departments, to contract third parties for specific services, to represent the organization at the international level, and is in charge with budgeting, according to Article 28/e. We notice that the powers of the general director are quite large and at times are contested by the employees, who complain that the director is abusive in terms of personnel decisions, that he/she travels too much abroad, that the financial decisions are not correct, as the public communication of the trade union members shows. The concentration of power can indeed be considered a vulnerability under the current reading of the law.

Political independence is not guaranteed by law

The law that governs the functioning of these institutions does not offer any tools to curtail the influence of political actors. On the contrary, by stipulating the way in which the management of public radio and television is appointed, it *de facto* establishes political control over the institutions.

- “If the management is political, the editorial content cannot be independent. The influence of political power is particularly noticeable in the news programmes and in news editing from the way segments prioritise topics favourable to the government, using arguments, sources, and guests that support the government point of view.” (Surugiu & Ionescu, 2019, p. 200)
- The editorial independence of the public radio and television has been and remains questionable, regardless of the political party in power.
- 2. **The way of funding**, exclusively from government budget sources. Underfunding is a means of political control and leverage.

As I have already mentioned, part of the funding came from subscriptions before 2017, which could have ensured a greater independence from political power, and relative freedom of reporting. The elimination of the subscription fee starting with 2017 has led to the transformation of these public services into state-owned institutions strictly dependent on the Ministry of Finance, hence determined by political decision-making process. Following the data referring to the funding of the Romanian Public Radio and Television, as they are stated in the Report of the European Broadcasting Union (EBU), November 2022, the state funding for TV represented, in 2021, 88%, funding from advertising, 5%, and other commercial revenues, 7%. Annual licence fee paid by household was zero. (European Broadcasting Union, 2022). The income as percentage of GDP was in 2021 0,04%, EBU average being 0, 16%. Income per capita was 4,38 Euro, compared with 47.53 EBU average. Total revenues – 84,67 million euro. The state funding for the Public Radio represented in 2021 was 97%, and only 3% funding from advertising and other commercial revenues. No annual licence fee paid by household. The income as percentage of GDP was in 2021 0,03%, EBU average being 0,16%, the income per capita 3,81 Euro, EBU average 47,53 Euro. Total revenues 73,71 million Euro (European Broadcasting Union, 2022).

- 3. **Digitalization** is not mentioned in the Law No 41/1994.

The digitalization process has multiple aspects: editing and production; broadcast and reception. Equipment costs are high, which put additional financial pressure. In Romania, the digitalization process was delayed relative to other European countries. A change in legislation is needed to adapt to the current digital, social, and economic trends.

- 4. **The control of Parliament.**

The Parliament is a political structure. The Parliament is using its powers discretionarily by rejecting annual reports and dismissing the councils of administration if they do not belong to the new political forces that are winning the elections.

5. **CNA (National Audio-visual Council)**, which is not an equidistant institution.

CNA is an institution under the control of the Romanian Parliament. It has to present an annual Report to the Parliament. CNA was criticized for the political favoritism, censorship, working in favor of the political power.

Why and how Public Television (TVR) falters? Witnesses from inside the public TV

Research carried out by the NGO *Active Watch* in 2016 (Martin & Ulmanu, 2016) identified and analyzed the following problems:

- Operating law
- Political control on TVR
- Lack of continuity in management
- The Board of Directors does not perform its control functions.
- Financial issues
- Many employees, expensive programs
- The lack of credibility of public television, crashing audiences
- Institutional culture. “The TVR-ist spirit”
- Convenient status quo
- Internal corruption and conflicts of interests
- Nepotism (a structure based on the favored of the relatives because of their relationship rather than their abilities).
- Bureaucracy
- Lack of resources

We notice that the law is on the first position, and it is considered by the authors “the main cause of the problems in TVR” (Martin & Ulmanu, 2016, p. 158-165).

Solutions and recommendations

In order to limit political influence, a new formula for the nomination of the leadership structure of the public radio and television is needed. The leadership structure of these public services should reflect the diversity of Romanian society, not the diversity of Romanian political structures. No political party should nominate members to leadership positions in public radio and television. The law must be modified in the sense that it should give voice and vote to non-governmental organisations, universities, and journalists’ professional associations. Furthermore, to limit the influence of the political power on these two public institutions, the law should clearly state that Parliament is not entitled to dismiss the Board of Trustees in its entirety, and at every change of political power, or to install an interim administration sitting for a long time, as has happened often. Changing the managerial team every

time the political power does, creates confusion, and exacerbates political pressure.

Solutions / recommendations: perspective from inside

Maria Țoghină, journalist and former PDG at the Public Radio, states that it is absolutely necessary to improve (*i.e.* by changing law) **the means of funding**.

The cutting of the direct public tax paid for the public media services is more that even the communist regime has done. To be financed only from the state budget means to impede the public mass-media to fulfill their essential role: to be in service of the citizenship, to educate, to target those people that are most vulnerable to disinformation. (Ionescu, 2022)

Carla Tompea, General Producer in TVR (Romanian Television), asks for **a new and a modern law**.

Having a law from 1994, applicable to a public in 2022, is at least an anachronism, if not something inefficient. Just as time has shaped and changed reality, so the TVR law has to adapt to the new.

Certainly not only public TV has changed in Europe but new media of audio video communication, social communication appeared. Not to mention the absolutely necessary relationship for the dissemination online of the classic TV content. Those who do not adapt, do not succeed.

Amendments / completions to the law must be accompanied by other legislative measures, regarding, for examples the funding resources.

We need a new law, or to be adapted the present one, a European law, a law for the 21 century, able to stimulate creativity, competition, and in the same time to be the framework of a correct mechanism for spending the budget funds. (Ionescu, 2022)

The key is “political will”

There have been several discussions and reform initiatives for changing the legislative framework in its vulnerable points, but none of them have been finalized so far. The problem is about “political will”. When the politicians are in opposition, they criticise the political interfering with public radio and television. They resonate with the civil society and plead for changing the law. But when the same politicians are coming to power, they forget their engagements, enjoying the status-quo (the existing state of political affaires).

Conclusions referring to Romanian PSB

- To create a real change in the activity of public media institutions is a long way from happening, which requires **a new law of functioning**,

institutional reforms, and changes at the level of mentalities and behaviour, as a whole.

- A **Code of Deontology** is also needed.
- Regarding the legislative framework, a **legislative action** is required to limit the political interference in the operations and organisation of Public Radio and Television in Romania, and to adapt these public broadcasters to the new context – which is democratic, European, and technological in nature.

Public Service Broadcasting (PSB) in Germany: (not) a model for Europe?

German PSB in a nutshell

According to Professor Dr. Frederik Ferreau, (Ferreau, 2022) from the University of Cologne / Koln, in Germany there are:

- 11 Public Service Broadcaster (Exemple: ARD, ZDF, Deutschlandradio)
- 9 independent broadcasters
- 20 TV channels (13 general channels; 7 information channels)
- 73 Radio channels (including 3 nationwide channels provided by Deutschlandradio)
- Online offers of each broadcaster + joint online offers.
- Annual revenue: 8.6 billion Euro (8.26 billion from broadcasting fees, 2021 status)

Funding of the German PSB

Requirements of the Federal Constitutional Court

- Public fees, in order to be independent from advertising.
- Law protects from the interfering of the state, political decision makers.
- Procedure in 3 steps:
 1. PSB declare their financial needs for a 4 year period.
 2. An independent Commission (KEF) analyses them to determine the amount of the broadcasting fee. (16 experts in media law, journalism, finance etc. from the 16 federal states)
 3. Decision

It is not a good model of funding, in the opinion of Professor Ferreau. “The scope of funding must be based on the remit (transmit, deliver), not vice versa” (Ferreau, 2022), he pointed.

Remit is the mission of the PSB

There are two ways of assignment: directly by the legislator, and by the broadcaster. “Not a model for remit. There are 90 media linear broadcasting services. That is too much”, said Professor Dr. Frederik Ferreau. “90 channels

need big funds. But the Constitution doesn't allow to be used big funds because they could affect the independence of the public services" (Ferreau, 2022), he has pointed again.

Supervision (management, administration)

Requirements of the Federal Constitutional Court: organization must reflect social plurality.

Typical organigram:

- Main Body (internally plural compound)
 - Elects the Director
 - Monitoring of the programs activities
 - Approves new offerings.
- Leads – staffed with experts (who offer economic and financial counseling). "Not a good model for reducing the influence in public media", pointed Professor Frederike Ferreau (Ferreau, 2022). Here you are his arguments!
 - Too much state influence (i.e. high-ranking politicians on boards)
 - The boards work too unprofessionally.
 - Mentality has to be changed: board members must be self-confident in their mission.

Other remarks

- In the **Federal Constitution** there are requirements for defending mass-media from the interference and the political control.
- Private media has to be a watchdog face to public media. (Professor Dr. Frederike Ferreau)
- "Professional associations/trade unions cannot guarantee that their members are competent or that they are politically independent. Therefore, transparency must be introduced even referring to these bodies. The way of selections is important in order to prevent the interference of politics." (Weberling, 2022)
- The interference of politics is not restricted to the public service media. Private media are also the subject of influence by the politicians.

Conclusions

- Public Service Broadcasting in Germany is useful, but in need of reform.
- All the publishers agree that there be a future for the PSB in Germany, and that PSB can be a successful model in digital age.

- The issue of management is important: the Director is elected from the Board. Problem: how to be elected in a democratic way and not to interfere in the editorial field?
- Media funding is important for the function of PSB. 8 billion Euro funding for the PSB in Germany. A big budget!
- The budget of PSB is transparent. PSB has to communicate its mission and its needs.

To conclude, it is the best to cite again Professor Dr. Johannes Weberling, from the Viadrina European University: “The German model of Public Service Broadcasting could hardly be implemented in other countries” (Weberling, 2022).

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