

Book of abstracts

**Media Policies:
Country Practices within the EU Media
Regulatory Framework**

Round table

Organized by

Department for Culture and Communication
Institute for International Relations (IMO)
Zagreb, Croatia

In cooperation with

Hellenic Foundation for European and Foreign Policy (ELIAMEP)
Athens, Greece

With the support of

Ministry of Culture of the Republic of Croatia

Programme

10th December 2010

14:00-14:15

Welcome notes from the organizer

Sanja Tišma, Director, Institute for International Relations (IMO) Zagreb, Croatia
Jaka Primorac, Institute for International Relations (IMO), Zagreb, Croatia

Opening remarks

Nina Obuljen, Ministry of Culture of the Republic of Croatia

14:15-15:15

Session I Media Landscapes: Dynamics of Traditional and New Media in Contemporary Media Markets

Speakers:

Paško Bilić, Institute for International Relations (IMO), Zagreb, Croatia
Susana de la Sierra, University of Castilla-La Mancha (UCLM), Toledo, Spain
Sebastian Müller, University of Bielefeld, (UNIBI), Bielefeld, Germany
Federica Casarosa, European University Institute (EUI), Florence, Italy

Discussion

15:15-15:45

Coffee break

15:45-16:45

Session II

Actors of Media Regulation and Media Regulatory Approaches

Speakers:

Tomislav Jelić, Ministry of Culture of the Republic of Croatia

Evangelia Psychogiopoulou, Hellenic Foundation for European and Foreign Policy (ELIAMEP), Athens, Greece

Rachael Craufurd Smith, University of Edinburgh (UEDIN), Edinburgh, United Kingdom

Pierre-François Docquir, Université Libre de Bruxelles (ULB), Bruxelles, Belgium

Discussion

16:45-17:45

Session III

Media Policies and Democratic Politics: The Quest for Free and Independent Media

Speakers:

Dilek Kurban, Turkish Economic and Social Studies Foundation (TESEV), Istanbul, Turkey

Daniel Smilov, Centre for Liberal Strategies (CLS), Sofia, Bulgaria

Zrinjka Peruško, Faculty of Political Sciences (FPZG), Zagreb, Croatia

Nada Švob-Đokić, Institute for International Relations (IMO), Zagreb, Croatia

Discussion

17:45-18:00

Concluding remarks

The working language of the round table is English.

PRESENTATION ABSTRACTS

Session I

Media Landscapes: Dynamics of Traditional and New Media in Contemporary Media Markets

Paško Bilić

The Croatian media policy is currently dominated by the restructuring of public service broadcasting through the Croatian Radio-Television Act. However, global developments reflected in digitalization and media convergence push the media environment towards multiplying media platforms with varied sources of national and international content and information. This brings forth the need to reconsider theoretical as well as policy bases. While from the consumer culture point of view this is sometimes regarded as culturally democratic through enabling wider choice, others express fears of declining public sphere and the rise of consumerism. The public sphere is especially fragmented through numerous web-based platforms. Regarding the Internet the democratic impact of technology should be reassessed with stronger emphasis on social factors that determine its usage. The social and technological poles are however somewhat hard to set apart, especially when it comes to Web 2.0, user-generated content and social media. This "socialization of the World Wide Web" redefines the role of communication in democratic societies. As opposed to vertical forms of communication in mass media, these horizontal forms of communication change the dominant ways of producing, sharing and disseminating information. The questions of information privacy and the trust in information sources become crucial. How can policy cope with these horizontal forms of communication? How can regulation be established for users who are accustomed to flexible usage of international and national web-platforms? These issues cannot be addressed at present time since we are not yet certain of the broader social or democratic implications these developments will have. There is however, significant potential and media policies should reorient themselves towards communication polices and observing the fluctuating power relations within these developments. More empirically orientated analyses should investigate the motives for using or not using social media.

Susana de la Sierra

The Spanish Constitution entered into force in December 1978, definitively concluding the authoritarian regime that had been imposed by General Francisco Franco after his military rising against the Republic in July 1936. During the dictatorial period, no rights and freedoms were guaranteed as they would have been in a democratic country. Even less so, of course, the freedom of expression or freedom of the press, as these would endanger the regime. This authoritarian system lasted for almost forty years but it was not homogeneous throughout that time period. In the 1960s, the regime opened up slightly, and this allowed for a revision of some laws concerning the media, which at that time were mainly the press and radio. From this period is the Press Statute, passed in 1966 which – paradoxically - is still in force. The media landscape that exists today in Spain is very much conditioned by this country's history. In the presentation, the main elements of today's media policies in Spain will be highlighted and some explanations will be provided on the influence of history in each particular subject.

Sebastian Müller

The German media landscape experiences a thorough development since the advent of new media services. Especially the Internet has accelerated the process. Traditionally, the German media market is very much shaped by a dual broadcasting system with the coexistence of equally strong public service broadcasting operators and private broadcasters. The landscape is also shaped by a very diverse print media market, privately organized by publishers with newspapers, weeklies and magazines. New media services, however, pose different challenges on the traditional media. The private publishers and private broadcasters try to circumscribe online activities of the public service broadcasters, because Internet is regarded as an important market. More and more younger people use the Internet as source of information which challenges thus the position of traditional media outlets. Finally, online offers of newspapers do not fulfil the expectations in generating money for publishers. These are only a few subjects which are discussed in the much broader field of the interrelationship of traditional and new media. Those mentioned here shall be addressed in the talk and following discussion.

Federica Casarosa

The analysis of the Italian media system shows a transition period, when developments both in terms of legislative interventions and new balances in the market power allocation are likely. The Italian regulatory framework was developed in three main phases. The first, between the two World Wars, was based on a public monopoly over the means of information, that created the tight relationship between political power and the media that still exists today. The second phase coincided with the deep constitutional changes which came about after the recognition of new principles and rights in the relationship between the State and citizens. The recent three decades have seen the enactment of the “third generation” legislation. As the social context changed, regulation has faced new challenges: the acceleration of technological innovation that has eliminated the rationale for the scarcity of resources in broadcasting networks, the increasing pressure from the entrepreneurial and advertising sectors for a liberalisation and privatisation of broadcasting, the need to embrace the media as a converged whole that is no longer compartmentalised into different market sectors.

Session II

Actors of Media Regulation and Media Regulatory Approaches

Tomislav Jelić

The Croatian media legislation (Media Act, Electronic Media Act, Croatian Radio-Television Act) is fully aligned with the *acquis communautaire* and it provides for the freedom of expression, protection of pluralism and diversity, general content requirements and content production (European works, independent production, own production), codes on editorial freedom and ethical codes, protection of privacy, dignity, reputation and honor. The media regulation and policy also promote citizenship participation and democracy in the Republic of Croatia. However, some of the existing legal norms are not fully implemented, which requires further efforts on the part of the media and the legislator since there is a room for the improvement in the future.

Evangelia Psychogiopolou

Evangelia Psychogiopolou will discuss the regulatory framework in Greece for the media sector, and will examine the influence of European Union law on domestic regulatory practice. Attention will be drawn to the jurisprudence of the Court of Justice of the European Union in the field and the recently adopted presidential decree that transposes the EU Directive on Audiovisual Media Services.

Rachael Craufurd Smith

Rachael Craufurd Smith will be exploring regulatory approaches in the United Kingdom, focusing on the growing influence of European Union and human rights law. She will also be evaluating recent moves to rely on competition law rather than state regulation as a mechanism to realise public interest objectives in the media field and will explain why the self-regulatory regime that currently applies to the written press is widely considered to have failed.

Pierre-François DOCQUIR

The presentation will first introduce the Belgian regulatory authorities in both French and Flemish Communities. Then, in order to illustrate a dynamic overview of the relationships between all actors of the media sector, the presentation will focus on a few cases, such as (1) how the CSA (French Community media regulator) accompanies the adoption of new rules on advertising, (2) the respective roles of the Conseil de Déontologie Journalistique (self-regulatory advisory body for journalists' ethics) and the CSA.

Session III
Media Policies and Democratic Politics:
The Quest for Free and Independent Media

Dilek Kurban

The process of economic liberalization in late 1980s in Turkey brought an end to the state monopoly over the media and resulted in the burgeoning of private broadcasting companies. This was coupled with the quantitative growth of the written press. Important as they were, these developments did not result in the establishment of a free and independent media in Turkey. The political and economical inter-dependence of the media and the state since the establishment of the republic in 1923 remains by and large unchanged. Moreover, the media continues to be dominated by a few conglomerates, which monopolize the ownership of the sector. On the other hand, the democratization process initiated by Turkey's EU accession candidacy implied reforms in the areas of freedom of expression and freedom of media as well as structural reforms in the areas of licensing, media ownership and competition. Finally, the entry of transnational companies into the media sector has increased the pressure on the government to adopt a coherent regulatory framework. The presentation will briefly analyze these current challenges concerning media freedom and independence in Turkey.

Zrinjka Peruško

Two main groups of parameters are necessary for analysing media systems – political culture and structure and the structural dimensions of the media system. While authors differ in what elements of political culture or structure they highlight as the most important (elements of normative media theory related to political values as in Siebert et al and Blumler and Gurevitch, or political structure and values as in Hallin and Mancini), the structural elements of the media system are almost identical: the type and development of the media market, the nature of the journalistic profession, the type of the relationship of the media to the political realm, and the role of the state in media system development (Siebert, Peterson and Schramm 1947/1956, Blumler and Gurevitch 1974-1977/1995, Hallin

and Mancini 2004). These categories are also included in media monitoring tools (e.g. UNESCO Media Development Indicators).

Based on these theoretical underpinnings, this presentation will analyze the role of the state in media system development, i.e. media policy, in European post-socialist transition in three phases: 1. freedom, 2. market, 3. European integration. The main argument is that a democratic media system can not be developed without an appropriate political culture and a democratic political consensus, and that media policy activity in the region corresponds to the three phase development as well as to the growing political consolidation.

Daniel Smilov

The media are extremely important for the Bulgarian parliamentary regime, and their special role in building the party system after the fall of communism could hardly be overestimated. There have been generally two models of interaction between political and media actors over the last twenty years. The first model of aggressive majoritarian attempts to control the (public electronic) media was characteristic for the 1990s. The second model started to shape after 2001, when the party system of the first ten years started to disintegrate, and populist newcomers won a succession of parliamentary elections. These developments took place against a much more pluralistic (and not susceptible to direct governmental control) background. The end result was a new pattern of relationships between political parties and specific media, which (at their extreme) led to hybrid political structures - party-media or media-party - or at least to very heavy emphasis on the development of capacities for media presentation and PR in party politics.

Nada Švob-Đokić

The quest for free and independent media is shaped within the public sphere concepts. These are usually imagined as democratic spaces in which citizens use the freedom of expression to promote their communication interests and the related public policies. The structure of such public spheres and types of communication that occur within them are supposed to follow democratic procedures in shaping and implementing media policies.

The public spheres do not correlate with sovereign states (Fraser, 2007: 8);

they defy the existing borders and support constructions of the 'hybridized cultural forms'. Until recently media policies were thought of as national, media specific and a part of cultural domain (Gripsrud and Moe, 2010), which is now being changed through the raise of a digital public sphere, that has introduced globalization, a-territorial communication, convergence and marketization.

What is the reflection of such developments in a small country that evolves through transitional changes from socialism to (a brand of) liberal capitalism? What could be the structure of a public sphere that would contextualize the establishment of free and independent media?

The main elements to be discussed in this context are the following: eclipse of any type of public sphere; promotion of particular (political) and individual interests; privatization of media and exposure to uncontrolled entrance of foreign media capital, transfer of foreign media organizations and institutions, provision of contents; slow and difficult re-establishment of the role of state (that largely serves market interests) through the media regulations, and an extremely slow re-appearance of a fragile public sphere that only marginally influences the types of formally democratized communication.

ABOUT SPEAKERS

Paško Bilić holds an M.A. in Sociology and History from the Croatian Studies, University of Zagreb. He works as a Research Assistant at the Department for Culture and Communication, Institute for International Relations (IMO), Zagreb, Croatia. His research interests include mass media, social media, wiki-projects, computer-mediated communication, social development, consumer culture, qualitative research methods. Mr. Bilić attends Postgraduate Doctoral Study in Sociology at the Faculty of Philosophy, University of Zagreb.

Federica Casarosa is a Research Assistant at the Robert Schuman Centre for Advanced Studies, formerly Jean Monnet Fellow in the same institution. Casarosa studied at the University of Pisa and at the European University Institute. She is the author of: 'Privacy policy improvements to protect children privacy' in C. Akrivopoulou and A. Psygkas (eds.), *Personal Data Privacy and Protection in a Surveillance Era: Technologies and Practices*; 'Children protection Online: uneasy steps towards a balance between risks and freedoms' in M. Fernandez-Barrera, N. Gomes de Andrade, P. de Filippi, M. de Azevedo Cunha, G. Sartor, P. Casanovas (Eds.), *Law and Technology: Looking into the Future*, European Press, 2009; 'Online auction site: an example of regulation of the electronic communities?', *European Review of Private Law*, 2009, 1; 'Wikipedia: esonero dalla responsabilità in caso di immediata rimozione dei materiali illeciti', *Danno e Responsabilità*, 2008; 'Les technologies de l'information et de la communication comme outils dans le strategies de restructuration dans les réseaux d'entreprises', *Revue Internationale de Droit Economique*, 2008, 3; 'The role of Information and Communication Technologies in the strategies of networks of firms', in M.A. Moreau (ed.), *Anticiper pour une Gestion Innovante des Restructurations en Europe*, Peter Lang, 2008.

Rachael Craufurd Smith is a Senior Lecturer at the University of Edinburgh. Before becoming an academic she gained considerable experience working both in private legal practice and as an adviser on media law and policy for the BBC. She teaches media law at both undergraduate and postgraduate levels and supervises a range of PhD research students working in the media field. Craufurd Smith has written widely on the impact of constitutional guarantees, fundamental rights, and international and domestic laws on media pluralism and diversity. More recently, her research has focussed on the impact of convergence on

established domestic regulatory regimes and the evolving relationship between individuals and the mass media. She has organised a number of international workshops on media pluralism, the impact of digitisation on film production and exploitation, and European Community law and culture. Craufurd Smith is a member of the Europa Institute and Co-director of the AHRC Script Centre, based in the School of Law.

Susana de la Sierra is an Assistant Professor in Administrative and European Community Law at the University of Castilla-La Mancha, and co-ordinator of the Master's in European Community Law at the same University. She holds a Bachelor degree in Law from the University of Cantabria (Spain), an LL.M. in German and Comparative Law from the University of Bayreuth (Germany) and a PhD from the European University Institute in Florence (thesis awarded a Special Distinction at the Thesis Prize for the Best European Thesis in Public Law, 2004). She has several publications, including two books, dealing with methods of comparative law, systems of protection of fundamental rights in Europe and the reciprocal influence of EC law and national laws. For some years now she has been involved in research on cultural and media policies and the regulation of culture and the media both at the national and supranational levels. In order to complete this work from a comparative perspective, she has been a Visiting Fellow at Oxford University (St. John's College) and a Visiting Scholar at Columbia University in New York (Fulbright Grant – Special Program for the Relations between the EU and the US).

Pierre-François Docquir is a post-doc researcher at the Centre Perelman for Legal Philosophy of the Université Libre de Bruxelles (ULB), where he also teaches Human Rights Law. He received his PhD in law from the ULB in January 2009 for a doctoral dissertation entitled "Freedom of Expression in the worldwide communication networks: proposals for a theory of the right of access to privately-owned public spaces". He previously worked as an attorney on the Brussels' Bar and currently serves as Vice-President of the Conseil supérieur de l'audiovisuel (CSA). He is a member of the editorial board of the *Revue du droit des technologies de l'information* (RDTI) and runs a blog dedicated to human rights, and particularly freedom of expression (<http://www.opiniondissidente.org>). His main areas of interest include freedom of speech, national and comparative media legal and regulatory frameworks, cyberlaw and democratic internet regulation.

Tomislav Jelić is a lawyer working in the Croatian Ministry of Culture and a lecturer at the College For Administration and Management „Baltazar Adam Krčelić“ in Zaprešić, Croatia. He received the civil law master's degree from the Law Faculty in Zagreb in 1999. He has participated in the drafting of media legislation and issued a number of the papers on this topic.

Dilek Kurban received her bachelor's degree in Political Science and International Relations from Boğaziçi University, Istanbul. She received her Master's in International Affairs (MIA) in human rights from Columbia University's School of International and Public Affairs, and her Juris Doctor (JD) degree from Columbia Law School. Between 1999 and 2001, she worked as an Associate Political Affairs Officer at the Security Council Affairs Division of the United Nations Department of Political Affairs in New York. Currently, she is the Program Officer for the Democratization Program of the Turkish Economic and Social Studies Foundation (TESEV) and an adjunct professor of law at the Political Science Department of Boğaziçi University. She is an editor for *Agos*, a Turkish-Armenian bilingual weekly and a founding member of the Diyarbakır Institute for Political and Social Research (DISA). She published in the areas of minority and human rights in Turkey, internal displacement in Turkey and European minority and human rights law.

Sebastian Müller is a Researcher at the Law Faculty at the University of Bielefeld. His PhD dissertation deals with non-judicial mechanisms in the field of human rights protection; parts of his thesis analyses the necessary structures for democratic participation and human rights protection, examining the role of the media in this respect. Before joining the University of Bielefeld, he held positions at human rights non-governmental organisations, the Federal Commissioner for Migrants and Refugees of the Federal Government and the German Institute for Human Rights in Berlin.

Zrinjka Peruško is Associate Professor of media studies at the Department of Journalism, and founder and Chair of the Centre for Media and Communication Research (CIM www.cim.fpzg.hr) of the Faculty of Political Science, University of Zagreb. She holds a PhD (1998) and B.A. (1985) in sociology and M.A. (1990) in communication studies from the University of Zagreb. She was Fulbright Visiting Professor at the Department for Communication and Culture, Indiana University, Bloomington, USA (2001-2002), and research fellow at the Center for European Social Research, Department of Sociology, University College Cork, National University of Ireland (1994). Until 2006 she was Head of the Department for Culture and Communication at IMO, Zagreb. In addition to participation in

European research networks – ‘East of West: Setting a New Central and Eastern European Media Research Agenda’, and ‘Transforming Audiences, Transforming Societies’, Peruško was member of the Group of Specialists on Media Diversity of the Council of Europe (2005-2008) which she chaired in 2006 and 2007, Croatian representative to the UNESCO International Program for Development of Communication (IPDC) (2000-2003, 2005-2008), Croatian National Commission for UNESCO (2004-2010), and was member of the Council of Europe Advisory Panel on Media Diversity (AP-MD) (2000-2004). She also took part in media democratization advocacy and was involved in media policy change in Croatia in the 1990s and 2000, respectively.

Evangelia Psychogiopoulou is a lawyer and a Research Fellow at the Hellenic Foundation for European and Foreign Policy (ELIAMEP, Athens, Greece). A graduate from the Faculty of Law of the Kapodistrian University of Athens, she holds a DEA in EU Law from Paris I University (Paris, France), a Master of Research in Law and a PhD in Law from the European University Institute (Florence, Italy). Her areas of focus are EU cultural and media policies and human rights protection. She has held research and management positions at the Academy of European Law (Florence, Italy), the Directorate General Education and Culture of the European Commission and UNESCO. She is presently the coordinator of the European research project “European media policies revisited: Valuing and reclaiming free and independent media in contemporary democratic systems” (MEDIADDEM, www.mediadem.eliamep.gr).

Daniel Smilov is a comparative constitutional lawyer and political scientist. He is Programme Director at the Centre for Liberal Strategies, Sofia, Recurrent Visiting Professor of Comparative Constitutional Law at the Central European University, Budapest, and Assistant Professor of Political Theory at the Political Science Department, University of Sofia. He holds doctorates from the University of Oxford (DPhil, 2003) and the Central European University, Budapest (SJD, 1999, *summa cum laude*). In 2002-2003 he was Research Fellow at the Centre for Policy Studies, at the Central European University. In 2003-2004 he was Jean Monnet Fellow at the European University Institute, Florence. He has also been a Visiting Scholar at the Boalt Hall School of Law, University of California, Berkeley in 1995. Dr. Smilov is co-author (with Martin Tisne) of *From the Ground Up: Assessing the Record of Anticorruption Assistance in Southeast Europe*, Central European University Press, 2004, co-editor (with Denis Galligan) of *Administrative Law in Central and Eastern Europe*, CEU Press, 1999, and co-editor (together with Jurij Toplak) of *Political Finance and Corruption in Eastern Europe*, Ashgate, 2007.

Nada Švob Đokić is Scientific Adviser (Full Professor) in the Culture and Communications Department, Institute for International Relations, Zagreb. She has wide and in-depth professional experience in the area of cultural, science, technology and public policy issues and she has led numerous research projects in the areas of cultural and technological development, transition, cooperation and exchange. She has been principal researcher on research projects such as 'The Creative and Knowledge Industries in the Countries in Transition' (2001-2006) and 'Global Influences and the Local Cultural Change' (2007-2012). In 2000 she established and coordinated the international project on 'Redefining Cultural Identities' (2000-2007) that was initially supported by the EU. Dr. Švob Đokić has published over 300 articles, studies, monographs, research reports and books in Croatian, English, French or other languages. Dr. Švob Đokić teaches at the University of Zagreb, Faculty of Philosophy (Postgraduate Doctoral Studies in Sociology). She has been consultant to UN organizations (UNDP, UNESCO, ISDRI); to EU agencies (EACEA, EU Research Directorate L) and to the Council of Europe (Comité Directeur de la Culture – CDCULT), on issues such as technical cooperation, the position of women in development projects, EU cooperation with third countries, regional cultural and scientific cooperation, and cultural policies. She was one of the founders and initiators of the Culturelink Network that was set up during her mandate as director of the Institute for International Relations.