

Introduction

In November 1989 the Velvet Revolution swept through Czechoslovakia and marked the beginning of fundamental transformations in all spheres of our lives. Broadcasting was no exception. The process of transforming the state-run institutions of Czechoslovak Television and Czechoslovak Radio and the appearance of privately-owned media on the Czechoslovak market has hardly started when Czechoslovakia ceased to exist on 1 January 1993. Since then both republics witnessed a succession of governments, entry into NATO and the European Union but public service broadcasting has remained one of the most contested issues. Between the years 1990 and 2005 in the two republics altogether as many as twenty-nine acts and decrees directly related to public service broadcasting were passed, the Slovak public service television was in September 2005 led by its 14th director general and at the very end of the year 2000 thousands of Czechs walked to the streets of Prague to publicly demonstrate their concern about the independence of Czech public service television. The social, political, cultural and economic changes shaped public service broadcasting and in turn public service broadcasting shaped these.

It has been argued widely that not only public service broadcasting but media as such play important roles in democracies. According to classical liberal theory media create a space between government and society in which individuals exercise control over the state. To understand and facilitate the critical roles of media is of particular importance in new democracies that experienced decades of state control over the media. It is, however, in particular public service broadcasting that was from its birth assigned to “inform, educate and entertain” – to use John Reith’s often quoted words uttered at the founding of the British Broadcasting Corporation – the nation independent of economic and political pressures. The extent to which these roles are mis/understood in the case of public service broadcasting in former communist countries has been the subject of only a few studies.

It is without doubt that during the last fifteen years some of the developments in the sphere of broadcasting in the Czech Republic and in Slovakia helped bring the former state-run broadcasters closer to the public service ethos yet it has been frustrating to see successive post-communist governments making decisions on broadcasting that clearly demonstrate a lack of understanding of the role of public service broadcasting and a preference for maintaining political control over broadcasters. Many of the interventions in the sphere of broadcasting lack a systemic, comprehensive and long-term approach. In this respect a number of aspects of public service broadcasting literally offer themselves for study and

analysis. This dissertation concentrates on the normative framework of public service broadcasting, on legislative measures that were developed between 1989 and 2005 in the Czech Republic and in Slovakia.

The sheer volume of legal instruments that were developed and deployed in relation to public service broadcasting in the two republics is striking and even more so is the fact that there is no systematic analysis of this framework available at the moment. Studies concern only certain legislative measures but do not pay attention to the legal framework in its entirety. What kind of public service broadcasting do these instruments facilitate? What roles do they assign it? And how (if at all) did these roles change? What material resources do legal measures attribute to public service broadcasters? How do legal stipulations ensure the independence of public service broadcasting? These are some of the questions that the analysis attempts to address. Obviously, it would be a major shortcoming to explore only the legal framework for public service broadcasting in the Czech Republic and Slovakia without taking into account the larger and increasingly more important supranational regulatory context.

Originally the dissertation was set up to compare regulation related to public service broadcasting not only in the two successor states of Czechoslovakia but also in the United Kingdom. However, in the autumn of 2004 I took up a Marie Curie fellowship at Dublin City University in the Republic of Ireland and the study of Irish public service broadcasting made me change my mind. A comparison with regulation on public service broadcasting in the Republic of Ireland appeared to be much more fruitful. The reasons for this are numerous: in size and geopolitical importance Ireland is closer to the Czech Republic and Slovakia, RTÉ (the Irish public service broadcaster) is exposed to similar approaches from the government (e.g. in terms of material resources), Irish regulators face similar choices in relation to protecting domestic production and the Irish language in the context of increasing competition from major global media players yet the legislative framework could hardly be more different. The analysis of the legislative framework, as I demonstrate in the relevant chapters, provides a series of lessons for policy makers in all the three countries.

In its final form thus the dissertation analyzes public service broadcasting regulation in the Czech Republic, Slovakia and the Republic of Ireland. However, as I already mentioned, it is virtually impossible to provide an in-depth account of such regulation and disregard its supranational dimension. Due to this the dissertation also discusses public service broadcasting regulation within the European Union.

The dissertation attempts to cover in particular developments that occurred from the 1990s to approximately May 2005 when the analysis was completed. The time frame, however, is not absolutely rigid, in case the clarity of the argument required going further in the past this was done (e.g. in the case of Irish legislation it was necessary to go back to the Broadcasting Authority Act of 1960). It is perhaps needless to stress that whilst the work on this dissertation was at its last phase in May 2005, legislation related to public service media is constantly being developed. For example, between the time when the dissertation was completed and it was printed (i.e. May and September 2005) a new act was passed in the Czech Republic (at the beginning of September 2005) that increased the licence fee payable for public service television broadcasting and at the same time decreased the amount of advertising to be broadcast by the Czech Television. In Slovakia, on the other hand, the heads of the two public service broadcasters (the Slovak Television and the Slovak Radio) in late August 2005 suggested that the new act on licence fees (which they prepare together with the Slovak Ministry of Culture) should not base the payment of licence fee on the ownership of a television or a radio set but rather on the consumption of electricity (i.e. everyone who uses electricity would pay a licence fee).

Chapters I and II of the dissertation provide the theoretical framework for the case studies on public service broadcasting regulation in the selected countries. Chapter I relates Habermas' concept of the public sphere to public service broadcasting and identifies three key features of the public sphere that are also crucial for an analysis of public service broadcasting, namely: its relationship to democracy (it is thus distinctly political and not economic); the required material resources for its functioning; and its independence from both the state as well as the market. The chapter moves on to the outline of concrete systems of public service broadcasting and discusses the most recent changes and challenges facing public service broadcasting.

Chapter II further develops the ground for the case studies as it concentrates on broadcasting regulation and general trends that have characterized it during the last fifteen years. It considers in particular deregulation and technological convergence and their impact on broadcasting regulation. The chapter discusses economic characteristics of broadcasting (and media in more general) as these are very specific (in particular because broadcasting is a public good as well as a merit good) and regulatory approaches should reflect them. The chapter concludes with a consideration of regulatory justifications and mechanisms and draws attention to the distinction between regulation in the public interest and in corporate interest.

Chapter III discusses the first case study – public service broadcasting regulation in the European Union. The supranational dimension of broadcasting regulation has become increasingly important, the scope of the dissertation does not make it possible to discuss more of these organizations thus because all the selected countries are EU member states I devote this chapter to a discussion of EU public service broadcasting regulation. It must be stressed at this point that there is very little EU broadcasting regulation that relates directly to public service broadcasting, importantly in 1997 a protocol on public service broadcasting (“Protocol [No. 32] on the system of public broadcasting in the Member States”) was annexed to the “Treaty on European Union” (“Treaty of Amsterdam”). The protocol leaves public service broadcasting within the jurisdiction of individual member states but does not exempt it from EU trading rules and competition regulation (in respect of public service broadcasting state aid is of key importance). The chapter discusses other policy documents as well, most importantly Directive 89/552/EEC “Television without Frontiers” of 3 October 1989 which establishes a common European audiovisual market. Apart from the European Union the chapter also considers public service broadcasting policies advanced within the Council of Europe. Of these the most important one is “European Convention on Transfrontier Television” of 5 May 1989. The chapter clearly shows that the regulatory goals and mechanisms as well as the implementation of policies differ significantly between the two supranational European organizations. The chapter very briefly considers another European organization, the European Broadcasting Union, which draws together European public service broadcasters and is in effect their most important “industrial” body.

Chapter IV incorporates the case study on the Czech Republic and the Slovak Republic and maps the development of regulation related to public service broadcasting since the fall of communism in 1989 to developments as late as May 2005. The chapter also discusses major events and political interventions in broadcasting thus in the case of the Czech Republic it deals with the case of TV NOVA and the Christmas 2000 strike at the Czech Television, in the case of the Slovak Republic then with the de facto state control over public service broadcasting under Prime Minister Vladimír Mečiar. It becomes clear from the chapter that the development of public service broadcasting regulation in the two countries is not close to being accomplished but rather a continuous process is involved and indeed it is difficult to make predictions about future developments. Key legislative measures were being passed at the very last stages of the writing of the dissertation and immediately after its completion.

The case of regulation of public service broadcasting in the Republic of Ireland is dealt with in Chapter V. The analysis goes back in time further than in the cases of the previous two countries as important historical contexts that had a direct impact on broadcasting regulation (in particular on broadcasting censorship) had to be explained. Public service broadcasting policy in the Republic of Ireland has been influenced by issues linked to competition – which is much fiercer than in the cases of the Czech Republic and Slovakia due to the “dumping” of British media products on the Irish market – as well as those related to the protection of the Irish language and the Irish culture.

The case studies covered in the dissertation are undoubtedly rather complex and the scope of the dissertation has – as always – been a limiting factor. There are some clear findings that the dissertation provides and these are undoubtedly relevant for policy makers, in particular in relation to possibilities of decreasing political influence over public service broadcasting and of ensuring its financial stability. There are, however, a number of questions that are still open and will await future analysis, these include the future impact of digitalization on public service broadcasting.