

A comparative overview

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Editors

This collective e-book, “*Media Regulators in Europe: A Cross-country Comparative Analysis*”, tries to organize disperse information about state media regulatory bodies in Europe. Thirteen country reports (Austria, Finland, France, Germany, Greece, Ireland, Italy, Poland, Portugal, Spain, Switzerland, The Netherlands, and the United Kingdom) are presented. These texts give us relevant insights on media statutory regulation and may enable us to draw some empirically-based comparisons.

The table presented in the next page offers a synoptic overview of similarities and differences between the thirteen countries, regarding the various dimensions subject to analysis.

The research shows that almost all democratic countries under study have independent bodies performing tasks of media regulation, and that they usually have administrative and financial autonomy regarding the state. This leads us to the understanding that states perceive media regulation as an important feature for democracy and for the qualification of symbolic environments, therefore constituting these kinds of external media regulation structures. Moreover, there are also cases in which several state bodies intervene, on a systematic and permanent basis, in the media field, leading to a cumulative scrutiny by different bodies, namely observatories.

The analysis undertaken in this study demonstrates that several different possibilities are drawn in terms of institutional organization and composition, especially in what concerns to mandates' duration and election mechanisms. A quick look at the table above allows us to conclude that the tendency is for the constitution of collegial bodies, and the exception is of single-running organs of decision.

Alternating between nominations by the President, the Government or National Assemblies, members are usually subject to a common rule regarding incompatibility for performing duties in such regulatory bodies: some kind of relationship with media companies. On the other hand, the pre-requisite of experience in any area of the media field is regularly safeguarded by the time members are designated.

Dimensions of Analysis

Legal figure	Institutional organization								Enforcement mechanisms			Accountability			Funding			Functions			Convergent regulatory body	
	Collegial body	Rotative system (members)	Renewal of mandates	Re-election of members	Media participation	Civil Society participation	Sanctioning powers	Parliament	Ministry	Government	Mixed	State	Fees	Press	TV	Radio	Telecommunications	Yes	No			
Austria	•	•	•	NA	Y	Y	Y	•	•	•	•	•	•	•	•	•	•	•	•	•		
Finland	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		
France	•	•	•	NA	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		
Germany	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA		
Greece	•	•	•	NA	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		
Ireland	•	•	•	NA	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		
Italy	•	•	•	NA	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		
Poland	NA	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		
Portugal	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		
Spain	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA		
Switzerland	•	NA	NA	NA	NA	NA	•	•	•	•	•	•	•	•	•	•	•	•	•	•		
The Netherlands	•	•	•	NA	NA	NA	NA	NA	•	•	•	•	•	•	•	•	•	•	•	•		
United Kingdom	•	NA	NA	NA	NA	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		

Indicators of independence of the regulatory body(ies)

The place of civil society and media representatives in regulatory bodies' institutional organization is also an interesting motto for debate. Indeed, as we perceive from the table, both sectors are under-represented, which is more significant in the case of media professionals. These indicators tend to point out a portrayal of state media regulatory bodies in which there is not a place, at least within the structures of decision-making, for both sectors, redirecting them, in some cases, for structures with advisory functions.

National Parliaments seem to be the most common organism to which state media regulatory bodies are accountable to, probably due to the fact that this is where major political parties are represented.

The data clearly indicate that the tendency for funding state media regulatory bodies in the thirteen European countries under study is to have mixed budgets, usually combining public funding with fees imposed to media.

Independence of state media regulatory bodies is probably one of the most difficult challenges to embrace and deconstruct in practice. Our study corroborates our previous conclusion (Sousa et al., 2012: 8) that states have been adopting two major acting lines: either creating autonomous bodies, with financial and administrative independence, or creating (or maintaining) agencies embedded in their own governmental structures. In fact, the European Union has been promoting, on a trans-sectorial basis, the idea of independent bodies of regulation. In the media field, traditional governmental structures that used to support political decision-making and to guarantee media systems surveillance seem to be less prepared to meet challenges emanating from interests' struggles that move across the media sector, as well as to assure non-interference and miscegenation between political forces and the common good that regulatory bodies are to preserve.

Although several changes have been introduced with new technologies and globalization, we continuously verify that media content regulation is, in almost all of the cases under review, confined to broadcasting. It seems that digital (r)evolution is building a selfish one-way road whilst existing media regulatory bodies keep walking in quite comfortable paths. Convergent regulatory bodies (as in the United Kingdom or in Italy) are not a tendency, as well as having the press amongst the bodies' competences: this only happens in Portugal and in Italy.

This comparative analysis demonstrates the relevance of the nations' political and administrative characteristics and the countries' historical background. The issue of decentralization is the best example to illustrate this, since there are countries with several regionalized structures of media regulation, namely Germany and Spain. In both cases, various different bodies are in charge of media regulation. It is also worth mentioning the Italian experience, as it presents regional committees within state media regulation.

All in all, achieving democracy is thus seen as a corollary of media regulation along with accountable media due to their role as informers, as providers of a "platform for public discourse and deliberation", as givers of "voice to a variety of social groups" as well as mediators, and also as controllers of "those in power by fulfilling a watchdog function and by holding them accountable" (Trappel & Meier, 2011: 7).

Some scholars argue that the debate around the concept of media regulation is nowadays weakened. In fact, the term is inconsistently used across Europe and its meaning is also changing fast. Moreover, these conceptual controversies are even more evident in academic and political discourses. For instance: “In American legal political studies regulation means a form of state influence on economic processes, whereas in Europe the term is generally understood as being used (...) to describe means to achieve public policy objectives” (Hans Bredow Institute, 2006: 11). Our comparative work aims at reflecting about these concerns, since facing different realities and experiences is a fruitful starting point. Although we refer to state-centric national structures, the dynamics and permanent character of sub-national and international links must be taken into consideration at all times. The country reports we have presented open up avenues for a more substantiated theoretical discourse on media regulation. Considering the cases we have examined, it is apprehensible the resilience of the state in times of so-called globalization and erosion of cultural and symbolic frontiers. Media regulation is certainly a highly complex system that goes far beyond top-down statutory entities but this model helps us understanding this (still) critical dimension of wider systems and it has the potential to be replicated. If the model is applied in other geographies, new lessons can be learnt.

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