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# POLICY ADVICE REPORT

# on the draft amendments to Poland's legal framework governing media

Council of Europe

Division for Cooperation on Freedom of Expression

The role and responsibility of the Council of Europe in protecting freedom of expression has been underlined in the "Reykjavik Principles for Democracy", the Reykjavík Declaration – United around and in the New Democratic Pact for Europe.

The present report was prepared by the Council of Europe Division for Cooperation on Freedom of Expression, within the Project "RESIST: Strengthening societal resilience to disinformation in Europe" that aims to support member states in strengthening societal resilience to disinformation through preparation of national strategies spanning across key policy areas including media, culture, education and youth.

Within this vein, RESIST contributes to an improved, more pluralistic and safer media environment, enables the beneficiary institutions and civil society organisations to progress towards meeting their reform agendas in the field of freedom of expression and freedom of media, in line with European standards, and supports journalists and other media actors in the exercise of their rights related to the freedom of expression, in accordance with Article 10 of the European Convention of Human Rights (ECHR).



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## List of acronyms

- AVMSD — Audiovisual Media Services Directive
- CoE — Council of Europe
- ECHR — European Convention on Human Rights
- ECtHR — European Court of Human Rights
- EFTA — European Free Trade Association
- EMFA — European Media Freedom Act
- EU — European Union
- KRRiT — National Broadcasting Council (Poland)
- NGO — Non-governmental organization
- PAP — Polska Agencja Prasowa (Polish Press Agency)
- PLN — Polish złoty (currency)
- PSM — Public Service Media
- S.A. — Spółka Akcyjna (joint-stock company, used in Polish company names)
- TV — Television
- TVP — Telewizja Polska (Polish public television)
- UOKiK — Office of Competition and Consumer Protection (Poland)

## Executive summary and concrete recommendations

The draft amendments to Poland's media framework aim to align national law with EMFA, AVMSD, and Council of Europe standards by expanding the National Broadcasting Council's (KRRiT) remit; overhauling public service media (PSM) governance through competitive, transparent appointments and clearer incompatibility rules; shifting PSM financing from licence fees to state budget allocations administered by KRRiT; enhancing transparency of media ownership and state advertising via central databases; integrating a media pluralism test into merger control alongside UOKiK; modernising licensing; and strengthening the Polish Press Agency's governance.

While many elements advance transparency, accountability, and pluralism safeguards, the cumulative concentration of powers in KRRiT — spanning ethics oversight, evaluation of PSM performance, funding allocation, licensing input, and pluralism opinions — creates structural risks of indirect influence over editorial independence.

Additional concerns include fully political appointment channels, overbroad dismissal grounds affecting freedom of association, ambitious transitional timelines, and broad, data-heavy pluralism criteria paired with short assessment deadlines.

The reform's success will depend on clear, objective criteria and methodologies, effective firewalls between functions, adequate resources and data access, strong transparency obligations, and robust, rapid judicial review.

Below is a non-exhaustive list of actionable recommendations for strengthening the proposed amendments to the Polish RTA, for stronger alignment with the Council of Europe standards and the relevant EU law.

### National regulatory authority

- Clarify and publish methodologies governing the exercise of KRRiT's expanded powers, in particular in relation to public mission assessment, allocation of budgetary funding, pluralism opinions, and ethics-related functions, in order to enhance predictability and legal certainty.
- Introduce explicit safeguards separating KRRiT's evaluative functions (mission performance, ethics compliance) from its distributive and decision-making powers (funding allocation, appointments), so as to reduce the risk of indirect influence through cumulative competences.
- Reassess the immediacy of transitional measures affecting KRRiT, in particular the shortening of the current mandate and the accelerated appointment of PSM supervisory and programme bodies, in light of Council of Europe standards on institutional stability and independence.

### Transparency of media ownership and public funding

- Clarify the legal consequences of non-compliance with disclosure obligations, with safeguards to avoid disproportionate or selective enforcement.
- Ensure consistent and enforceable implementation, including clear rules on verification, proportionality of sanctions, and coordination between registries and the central database maintained by KRRiT.

**State advertising**

- Specify, minimum mandatory elements for the rules adopted by public entities (in addition to the general principles already listed): objective selection criteria set in advance, a non-discrimination clause (including a ban on political/editorial considerations), basic documentation duties for award decisions, and a requirement that the same framework applies to intermediaries (e.g., advertising or media buying agencies).

**Transparency of media ownership and public funding**

- Ensure consistent and enforceable implementation of the new transparency obligations across broadcasters, press publishers and public authorities, including clear rules on verification, proportionality of sanctions, and coordination between registries and the central database maintained by KRRiT.
- Clarify the legal consequences of non-compliance with disclosure obligations, with safeguards to avoid disproportionate or selective enforcement.

**Public service media governance and funding**

- Clarify the scope and limits of professional, incompatibility and apoliticality requirements applicable to members of PSM governing bodies, ensuring that they target conflicts of interest and active political involvement relevant to the function, rather than formal or historical affiliations as such.
- Strengthen procedural safeguards in appointment and dismissal processes (reason-giving, transparency, and access to judicial review), particularly where KRRiT participates in or influences these processes.
- Clarify that programme councils' powers related to editorial independence are protective, not disciplinary.
- Strengthen predictability of funding by requiring advance publication of allocation criteria and multi-year indicative planning.
- Limit the discretion of KRRiT by linking allocation decisions to objective parameters set out in law.
- Consider introduction of internal editorial statutes defining the relationship between management, editors and journalists.
- Require documented consultation with editorial staff prior to appointment or dismissal.
- Provide access to internal or independent complaints mechanisms on interference with editorial independence.

**Ethics frameworks**

- Limit KRRiT's role in relation to journalistic ethics codes applicable to public service media to procedural oversight (e.g., transparency, inclusiveness, internal consistency), avoiding substantive assessment of ethical content or editorial standards.
- Clarify the relationship between ethics mechanisms, supported by the regulator, and those of professional self-regulatory bodies/associations, in order to preserve the autonomy and credibility of journalistic ethical governance.

**Media pluralism and concentration control**

- Provide more detailed guidance on the application of pluralism assessment criteria used by KRRiT and UOKiK. Standardise datasets.
- Reconsider the feasibility of the statutory one-month deadline for pluralism opinions, or introduce procedural flexibility (e.g., extend deadlines to 60–90 days with stop-the-clock), given the complexity of the assessment and potential data limitations.
- Clarify the legal effects of KRRiT's pluralism opinions.

## Introduction

This opinion assesses the Draft act amending the Act on Radio and Television Broadcasting and certain other acts[1] (Draft of 5 December 2025), prepared by the Poland's Ministry of Culture. It was requested from the Council of Europe by Polish civil society in the context of the public consultation organised by the Polish government, closing on 23 January 2026. The analysis is based on relevant Council of Europe standards, the Audiovisual Media Services Directive (AVMSD),[2] European Media Freedom Act (EMFA)[3] and the European Convention on Human Rights (ECHR) as interpreted by the European Court of Human Rights.

Council of Europe standards recognise the media as requiring special protection due to their role in democratic processes, social cohesion and media pluralism. While public service media (PSM) are granted particular attention,[4] these standards also extend to the institutional, regulatory and market conditions under which both public and private media operate, including safeguards against political, economic and other forms of undue influence.[5] In the case law of the European Court of Human Rights, States enjoy a margin of appreciation in organising their media systems; however, once they regulate broadcasting or establish public authorities with powers over the media sector, they assume positive obligations under Article 10 ECHR to ensure an enabling legal and institutional framework for the effective exercise of freedom of expression. This includes safeguards against both direct and indirect interference, such as political control through regulatory bodies, licensing systems, ownership structures or the allocation of public resources. The Court has repeatedly underlined that States remain the ultimate guarantors of media pluralism, notably in the audiovisual sector, and specifically for the public service media, as illustrated in Manole and Others v. Moldova.[6]

At the EU level, the constitutional and regulatory framework similarly emphasises the importance of media pluralism and editorial independence for democratic societies and the functioning of

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[1] These include the Act of 29 May 1974 on the provision of benefits to war and military invalids and their families, the Act of 26 January 1984 – Press Law, the Act of 8 March 1990 on municipal self-government, the Act of 26 July 1991 on personal income tax, the Act of 31 July 1997 on the Polish Press Agency, the Act of 5 June 1998 on county self-government, the Act of 5 June 1998 on provincial self-government, the Act of 30 June 2005 on cinematography, the Act of 16 November 2006 on cash benefits and entitlements for civilian blind victims of war, the Act of 16 February 2007 on competition and consumer protection, the Act of 9 June 2011 on family support and the foster care system, and the Act of 2 March 2020 on special measures related to the prevention, counteracting and combating of COVID-19, other infectious diseases and crisis situations caused by them.

[2] Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), OJ L 95, 15.4.2010

[3] Regulation (EU) 2024/1083 of the European Parliament and of the Council of 11 April 2024 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU (European Media Freedom Act), OJ L, 2024/1083, 17.4.2024.

[4] E.g., Recommendation no. R(96)10 on the guarantee of the independence of public service broadcasting. https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168050c770; Recommendation CM/Rec(2012)1 on public service media governance, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cb4b4;

[5] E.g., Recommendation No. R (99)1 to member States on measures to promote media pluralism. https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016804fa377; Recommendation CM/Rec(2018)1 on media pluralism and transparency of media ownership. https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680790e13;

[6] Manole and others v. Moldova, no. 13936/02, ECHR 2009, https://hudoc.echr.coe.int/eng?i=001-94075

the internal market. Protocol No. 29 on the system of public broadcasting in the Member States[7] recognises the specific role of public service media and confirms Member States' competence to define and fund their remit, and EMFA (in some respects together with AVMSD) addresses systemic risks affecting the media market, including regulatory capture, ownership transparency and concentration and the use of state resources in ways that may distort competition or editorial autonomy. Its common framework of minimum standards also covers audience measurement systems.

EMFA Article 5 sets out specific requirements for public service media, including guarantees of editorial and functional independence, transparent and objective appointment and dismissal procedures, sufficiently long terms of office, protection against arbitrary removal, and funding arrangements ensuring adequate, sustainable and predictable resources. Recitals 27–31 further emphasise that public service media are particularly exposed to risks of interference due to their proximity to the state and reliance on public funding, and that uneven national safeguards may facilitate media capture, distort competition and undermine freedom of expression.

The EMFA Article 22 mandates that member states establish substantive and procedural rules to assess media market concentrations that could negatively affect pluralism and editorial independence. These assessments must be conducted in a manner that is transparent, objective, proportionate, non-discriminatory, and based on the criteria set in advance. The features such as diversity of services and influence on public opinion, safeguards for editorial independence, the economic sustainability of the parties involved, relevant findings from the Commission's Rule of Law report on media pluralism and freedom and any commitments offered by the parties to safeguard pluralism and editorial independence, should be considered.

EMFA Article 7 sets out the role of national regulatory authorities or bodies in ensuring the application of the EMFA framework, including, where relevant, consultation or coordination with other competent authorities or self-regulatory bodies. It refers to the independence requirements laid down in Article 30 of the AVMSD for the exercise of tasks under the Regulation, requires Member States to ensure that regulators have adequate financial, human and technical resources, and provides that, where needed, they must be empowered to request proportionate and necessary information and data from media service providers and other relevant persons.

Against this background, the present assessment examines the proposed draft law amending the Polish Broadcasting Act and some other media related acts with a focus on institutional safeguards, the clarity and predictability of procedures, and the allocation and limitation of regulatory powers.

## General observations

The document titled Justification, prepared by the Ministry of Culture and accompanying the Draft act amending the Act on Radio and Television Broadcasting and certain other acts, presents the proposed reform as a legislative response to the EMFA, based on a minimum implementation approach and framed by existing legislative distinctions between broadcasting and the press. The

[7] Protocol (No. 29) on the system of public broadcasting in the member states, OJ C-326, 26/10/2012, https://eur-lex.europa.eu/eli/treaty/tfeu_2012/pro_29/oj/eng

proposed changes focus primarily on areas considered necessary to ensure formal alignment with the EMFA, while preserving the traditional sectoral structure of Polish media law.

One of the central elements of the draft is the expansion of the role and regulatory competences of the National Broadcasting Council (KRRiT). These provisions give KRRiT a formal role in initiating and supporting, and now also approving, ethics codes for public service media, and in supporting the Media Ethics Council. This places the regulator as an institutional actor in the journalistic ethics framework, alongside professional and representative bodies.

The Justification presents the shift to budgetary funding of public service media (PSM) from a current license fee model as a measure aimed at ensuring predictability and compliance with EMFA requirements (without addressing questions of potential political capture). From the perspective of Council of Europe standards, budgetary funding of PSM is not, in itself, problematic. The ECtHR and CoE soft-law instruments do not prescribe a specific funding model, but consistently emphasise that funding must be adequate, stable and predictable, and designed in a way that safeguards editorial and institutional independence.

The amended reporting and assessment mechanisms strengthen transparency and accountability of PSM, but they also place the regulator (KRRiT) in a key position in evaluating the fulfilment of the public mission, including criteria linked to editorial performance. Combined with the new budgetary model, where KRRiT also decides on the distribution of funds, this creates a setting in which financial stability becomes linked to regulatory evaluation. This makes the independence of KRRit and practical exercise of its assessment powers particularly important from the perspective of PSM editorial independence.

The draft law incorporates media pluralism considerations into merger control procedures, involving both the competition authority and the media regulator. It also introduces extensive transparency obligations related to state advertising, presented as a key instrument for addressing risks of indirect influence on media actors.

The draft also proposes extensive changes of the licensing regime, modernising it to the extent of abolishing certain broadcasting licences (e.g., for cable or satellite TV) or simplifying some procedures. Among the others it also aims to replace vague media specific dominance concepts with competition law standards. It is proposed that licence refusal depends on strengthening a dominant position in a relevant market and that licence revocation is possible in cases of abuse, not mere dominance. Understanding the full implications of combining licensing regime with competition law concepts would require an examination of the relevant provisions of the Competition and Consumer Protection Act, as well as the associated case law and regulatory practice. Such an in-depth analysis would exceed the scope of this preliminary opinion, which was prepared in response to an ad hoc request and within a very short timeframe.

As the key objective of the legislative changes is to align the Polish media related legislation with the EMFA, the following sections outline key areas linked with the EMFA requirements and indicate where further clarification or improvements may be necessary.

## National regulatory authority

### Remit

The amendments significantly increase KRRiT's role across the media system. They extend the regulator's information gathering powers and its responsibilities in maintaining media related databases (including on state advertising), contributing to media concentration assessments, participating in the appointment of PSM governing bodies, supporting ethics frameworks, monitoring PSM reporting, and deciding on the allocation of the new budgetary funding for PSM. These measures are presented as a response to structural weaknesses and as a way to reinforce regulatory capacity.

The draft also assigns KRRiT a formal role in the development of journalistic ethics instruments. Under the proposed Article 21e, public radio and television entities must prepare draft codes of journalistic ethics, which are subject to KRRiT's approval or refusal, with binding comments in case of refusal. This places ethics codes within a framework of regulatory validation, going beyond a purely facilitative co-regulatory role. Council of Europe standards generally treat journalistic ethics as profession-led, and while the EU media legislation encourages co- and self-regulation, it does not require regulatory approval of ethical standards. Even without direct content intervention, such approval powers may affect perceptions of editorial independence.

One of the positive aspects is that the draft increases transparency of KRRiT's own functioning. Meetings are to be public and broadcasted on the Council's website, subject to limited exceptions, and resolutions and decisions of the Chair must be published. These steps can improve public insight into regulatory decision-making and can strengthen accountability, particularly where KRRiT exercises discretionary powers.

However, the cumulative effect of concentrating PSM funding and governance decisions, broad regulatory oversight and licensing responsibilities and pluralism related assessments in a single authority is worth attention. From a Council of Europe perspective, the primary concern is not direct interference, but the potential for structural influence arising from overlapping competences in areas with potentially important implications for democracy.

### Composition

Under the current law, the National Broadcasting Council consists of five members: two appointed by the Sejm, one by the Senate and two by the President. This means that the Sejm and the President each appoint 40% of the members (2 out of 5), while the Senate appoints 20% (1 out of 5).

The draft amendment of Article 7 of the Act of 29 December 1992 on radio and television broadcasting restores a nine-member composition with staggered terms (Article 7(4)), similar to the legal solution in place before 2005. It also introduces stricter incompatibility rules, clearer professional criteria, public hearings and a requirement to provide reasons for appointments. These elements correspond to the approach in EMFA Article 7 and Council of Europe standards on independent regulators.

Under the draft, four of the nine members would be appointed by the Sejm, two by the Senate and three by the President. In proportional terms, the Sejm's share increases to 44.44% (4 out of 9) and the Senate's share to 22.22% (2 out of 9), while the President's share decreases to 33.33%

(3 out of 9). Overall, the balance shifts slightly towards parliamentary appointments, with the combined share of Sejm and Senate rising from 60% to 66.67%, and the President's share falling from 40% to 33.33%.

Appointments remain fully in the hands of political institutions (the Sejm, the Senate and the President). The draft refers to the required support from NGOs, but NGOs are not part of the formal decisionmaking process. The proposed reform therefore strengthens procedural safeguards, but the entry stage remains based on political appointments.

### Dismissal

The inclusion of explicit dismissal grounds (Article 7(6), points 5-7) linked to membership in political parties and other organisations appears intended to strengthen the independence and neutrality of the National Broadcasting Council by drawing clear boundaries between regulatory functions and external affiliations.

By defining incompatibilities as continuing obligations throughout the mandate, the draft seeks to prevent situations in which political, economic or organisational ties could affect, or be perceived as affecting, the impartial performance of regulatory duties. In this sense, the provision aims to enhance legal clarity and public confidence in the Council's independence.

However, treating mere membership in a political party, trade union or a religious organisation as an automatic ground for dismissal does not distinguish between active involvement in decisonmaking or leadership roles and passive or purely formal affiliation.

From a Council of Europe perspective, restrictions on political and religious association may be justified for public offices, but they normally require a clear and proportionate link to a concrete risk to independence. Religious belief and association are protected under Articles 9 and 11 of the ECHR, therefore a more differentiated approach, focusing on functions or activities that entail actual influence or conflicts of interest, would more closely reflect established European standards while still pursuing the objective of safeguarding regulatory independence.

Under the current law (Article 12), the annual reporting obligation of the National Broadcasting Council is directly linked to the possibility of early termination of its mandate. If the Sejm and the Senate reject the annual report, the term of office of all members may expire, subject to confirmation by the President. This mechanism creates a direct institutional link between political assessment of the Council's activity and the continuity of its mandate.

The proposed repeal of points 4 and 5 removes this link and decouples the reporting obligation from the risk of collective dismissal. This change strengthens institutional stability and reduces the potential for political pressure through reporting procedures, in line with European standards, emphasising accountability mechanisms that do not undermine the functional independence of regulatory authorities.

### Transitional provisions

They have clear systemic implications. First, they reset the KRRiT by shortening the mandate of the current Council and introducing a staggered appointment system (2-, 4- and 6-year terms) across the Sejm, Senate and President. This is designed to desynchronise political cycles and strengthen institutional continuity and pluralism within the regulator over time. Nevertheless,

immediate shortening of the existing mandate is a sensitive measure from a Council of Europe perspective, as it directly intervenes in an ongoing term of an independent authority.

Second, they accelerate KRRiT's downstream influence over public media governance. The newly appointed Council is required, literally immediately, to adopt implementing rules for competitions. Within one month from the entry into force of that regulation, KRRit is expected to appoint the supervisory boards and programme councils of public radio and television companies.

This appears unrealistic. But beyond the feasibility of this timetable, the design concentrates significant transition power in the hands of the newly constituted regulator and makes the initial composition of KRRiT particularly significant for the governance and independence of PSM.

## Transparency of media ownership and funding

The amendment to Article 14a significantly expands broadcasters' transparency obligations. In addition to existing identification and ownership disclosure requirements, broadcasters would be required to provide easy, direct and permanent access to information on the total annual amount of public funds received for state advertising and on advertising revenue from public authorities, including foreign public entities. Broadcasters operating as commercial companies with State Treasury shareholding would also have to disclose their ownership structure and the extent of the State Treasury's participation, while broadcasters that are state authorities, state-owned entities or political organisations would be required to clearly inform audiences of that status. All such information must be published on the broadcaster's website and forwarded to the National Broadcasting Council for inclusion in a central database, with specific deadlines for state advertising data (including for funds coming from public authorities or entites from abroad, i.e. from the member states of EU or EFTA).

Similarly, the draft adds a new Article 27a to the Press Law, introducing transparency obligations for press publishers that largely mirror those applicable to broadcasters. Publishers would be required to provide easy, direct and permanent access to basic identification information, ownership and beneficial ownership data (including shareholdings above defined thresholds), and a list of all media services and video-sharing platforms operated by them or by entities within the same capital group. They would also have to disclose the total annual amount of public funds received for state advertising, including from domestic and foreign public authorities, and to indicate State Treasury shareholding or the status of a state body or political organisation. The information must be published on the publisher's website and forwarded to the National Broadcasting Council for inclusion in a central database, with an annual deadline for state advertising data.

Under proposed Article 47zc, every public entity will have to, by 31 March each year, publish and send to KRRiT a report on its previous year's spending on state advertising and related supply/service contracts. The report must list the beneficiaries (including any intermediaries), indicate the capital group they belong to, and show both the total annual amount spent and the amounts spent per individual provider. A part of this information must be published also on the entity's website and in its Public Information Bulletin.

By making state advertising flows and state ownership visible to audiences, the provisions address risks of media capture through financial dependencies. This is consistent with EMFA objectives and Council of Europe standards aimed at preventing indirect state influence and enhancing public accountability. However, the effectiveness of these safeguards will depend on the practical operation of the central database and on whether transparency is complemented by effective mechanisms capable of addressing discriminatory or strategic allocation of public funds.

## State advertising

Besides comprehensive framework on state advertising transparency (mentioned above), the draft also introduces rules on procurement of state advertising and supply contracts or service contracts awarded to provider of media services or video sharing platforms, press publisher, internet platform provider or entities intermediating in the purchase of such supplies or services (Article 47zb).

Public entities would be required to adopt and publish internal rules governing the allocation of state advertising and related supply or service contracts, regardless of their value. These rules must be based on principles of fair competition, equal treatment, transparency and proportionality, and include clear procedures, selection criteria and measures aimed at distributing public funds across a diverse group of media and platform providers. Public entities would also be obliged to publish annual, detailed information on state advertising expenditure and related contracts, including beneficiaries, capital group affiliations and amounts spent.

The Chair of the National Council may request information from public entities on the criteria and procedures used in awarding contracts for state advertising, supply contracts or service contracts. (Article 10(3a)).

## Public service broadcasting

New Articles 26a–26l represent a thorough redesign of PSM governance. They introduce several safeguards that are compatible with the CoE approach to institutional/editorial independence (clear rules, transparent procedures, pluralistic input, stability of terms), but it also concentrates key leverage points in bodies that can be politically shaped (KRRiT and State Treasury). This means the effectiveness of the safeguards largely depends on:

- the independence of KRRiT itself,
- the precision and enforceability of constraints on its discretion (including judicial review), and
- whether accountability tools (such as report acceptance) are designed and applied in a way that does not translate into indirect influence over editorial leadership.

### Professional and incompatibility requirements (Art. 26a)

The draft sets detailed qualification criteria (education, experience, role specific competences) for management board members, supervisory board members, programme council members and editors-in-chief, and introduces conflict of interest restrictions (financial interests in media related entities; political party links; cooling-off periods). This moves the framework toward rule-

based eligibility rather than discretionary appointments. In CoE terms, clearer professional criteria and incompatibility rules can support independence, provided they are applied predictably and non-selectively.

### Selection (Arts. 26b–26c, 26f, 26l)

Key appointments (management board; many supervisory board and programme council seats) are channelled through open competitions, published candidate lists and assessments, public justifications, and even live-streamed interviews. These are classic procedural safeguards: they increase transparency and can make overt political control more costly. The added requirement that candidates submit a mission related concept also anchors the process in the public service remit rather than partisan expectations.

However, the system is also very centralised. KRRiT controls the competition outcomes and makes final appointment decisions (and can refuse to appoint the proposed management candidate). The draft also authorises KRRiT to set, by regulation, detailed rules of procedure for competitions (Art. 26l). From an independence perspective, this increases the weight of the regulator in the whole governance chain. The viability of this model therefore depends heavily on the regulator's own independence and on the quality of constraints on its discretion (clear criteria, reasoned, judicial review, stable practice).

### Supervisory Boards (Art. 26d)

The amendment changes the supervisory boards of TVP and Polish Radio to five members and regional radio boards to three members. In each case, a majority would be appointed by KRRiT after a competition (3/5 and 2/3 respectively), while the remaining seats would be appointed by the entity authorised by State Treasury. Terms are set at five years, and the boards keep important consent powers, including over senior managerial appointments, collective agreements, participation in other companies, and disposal of real estate.

This design strengthens formal safeguards through longer terms and competitive appointments via KRRiT, which is generally consistent with European standards on stability and merit-based governance. The appointment role of the State Treasury shareholder maintains a direct state channel inside bodies that exercise significant control over management and strategic decisions, which remains relevant when assessing institutional distance from political power and exposure to capture.

### Programme Councils (Art. 26e)

Compared to the current solution where programme councils are heavily linked to parliamentary representation, the new model shifts programme councils toward NGO-nominated candidates (plus ones nominated by employees). This can be read as an attempt to embed PSM accountability in broader society rather than party structures, which is generally closer to CoE reasoning on insulating PSM from political domination.

### Editors-in-chief (Arts. 26e; 26h–26i; link to 21e)

Editors-in-chief would be selected via a competition run by the programme council, with consultations of editorial teams and trade unions, and with publication of candidate assessments. This can strengthen internal professional legitimacy.

Editorial independence is also formalised as an object of governance. Programme councils set internal rules and handle disputes/complaints on interference (Art. 26e(6)), which can support independence if the council is genuinely pluralistic and not used as an instrument of control.

### Dismissal (Art. 26j)

Article 26j defines dismissal grounds and adds procedural transparency (reasoned, public dismissal resolutions). Several grounds (criminal conviction, incapacity, conflict of interest situations) are standard safeguards. The provision that the editor-in-chief may be dismissed for actions that interfere with journalistic independence by issuing instructions violating press law standards is an explicit safeguard of editorial independence.

The draft links dismissal of management board members and editors-in-chief to KRRiT's decision to refuse acceptance of the annual report for two consecutive years. This introduces a performance/accountability mechanism controlled by the regulator.

From a capture perspective this can also become a structural pressure point if the criteria for report acceptance are not narrowly defined, predictable, and insulated from political preferences. In CoE terms, this is the type of mechanism that needs very careful design, as even indirect tools can affect editorial autonomy if they influence leadership stability.

### Funding (Art. 31-31c)

The amendments to Articles 31 replace the licence fee model with direct state budget financing. This responds to concerns about the licence fee's inefficiency and weak public acceptance, and it is intended to provide a more stable and universal funding base for the public mission.

Under the new regime, the Minister of Finance must transfer at least PLN 2.5 billion each year to a separate KRRiT account. KRRiT then decides, by 30 September, how the funds will be distributed among public radio and television entities for the following year, based on their programme and financial plans and the previous year's report, and it must publish a reasoned allocation decision. This places the regulator at the centre of the PSM financing architecture.

The separation between reporting on the mission performance and reporting on the use of public funds helps distinguish editorial accountability from financial transparency. However, the system combines two functions in one authority. KRRiT evaluates the fulfilment of the public mission, including criteria that relate to impartiality, objectivity and editorial independence, and it also controls the distribution of the budgetary funds. Since the assessment criteria are broad, this design makes the practical safeguards around how evaluation is conducted particularly important. External oversight of PSM conducted by KRRiT should not turn into substantive editorial judgement or a proxy for content control.

In a budget based model of PSM financing, stronger safeguards on predictability, clear limits on assessment criteria and effective procedural protections against discretionary pressure are specifically relevant, especially in politically polarised contexts.

## Media pluralism

The draft (in Chapter 6, 47x, 47y and 47z,) introduces a 'plurality test' into the existing merger and concentration regulation, supplementing competition law with a media specific assessment.

This approach is broadly aligned with the EMFA logic, which treats media concentration not only as an economic issue but also as a risk to media pluralism and editorial independence.

The involvement of the media regulator in assessing effects on pluralism corresponds to EMFA expectations that sector-specific expertise should inform concentration review.

The Act on Competition and Consumer Protection is proposed to be amended accordingly by explicitly integrating media pluralism and editorial independence into merger control. The amendments introduce a statutory definition of the mass media market, require the competition authority (UOKiK) to take pluralism and editorial independence into account when assessing concentrations involving media undertakings, and formalise cooperation with KRRiT by obliging UOKiK to request its opinion and to justify any departure from it.

### Division of roles

The system relies on a dual institutional model, with UOKiK retaining formal competition-law competence and KRRiT issuing opinions on media pluralism and editorial independence (Article 47x(1)). While this division reflects existing competences, it introduces procedural complexity and may generate uncertainty for media services providers. For concentrations below the notification thresholds, KRRiT's opinions appear to be non binding. They may still carry some weight, including reputational effects and possible relevance for subsequent regulatory decisions (for example, licensing), but without producing clear and immediate legal consequences.

### Criteria and predictability

The pluralism assessment criteria are formulated in broad and open terms, covering audience access across different media and platforms, influence on public opinion, diversity of content (including local and specialised content), economic sustainability of the entities involved, and existing or planned safeguards for editorial independence (Article 47x(3)). This raises issues of predictability and proportionality if not accompanied by detailed guidance and consistent practice.

EMFA explicitly stresses that concentration related safeguards should be applied in a transparent and foreseeable manner, to avoid discretionary or selective use. The amendment suggested in Article 47x(4) refers to guidelines to be prepared by the European Commission, as well as to the guidance of the European Media Services Board (in cases when issued).

### Practical feasibility

A practical issue arises from the very short deadline set for the pluralism assessment. Under Articles 47x, 47y and 47z, KRRiT is required to issue an opinion on the impact of a concentration on media pluralism and editorial independence within one month of receiving a request or notification. This applies both to concentrations subjected to decisions by UOKiK and to those below notification thresholds, despite the range and complexity of the assessment criteria.

In practice, not all of the relevant data needed to assess these factors are readily available, standardised, or comparable across media sectors, particularly for online and cross-media activities. Some elements, such as influence on public opinion or the effectiveness of editorial safeguards, typically require contextual and longitudinal analysis rather than rapid ex ante assessment.

From an EMFA and Council of Europe perspective, pluralism assessments are expected to be substantive, evidence based and predictable, rather than purely formal. A one month deadline, combined with vague indicators and uncertain data availability, risks pushing the assessment towards a descriptive exercise, and increases the risk of reliance on incomplete information and assumptions. This may affect the quality, consistency and credibility of opinions.

## Licensing

The amended licensing system moves towards a more differentiated and proportionate model, by limiting classical licensing mainly to terrestrial broadcasting and relying more on lighter (authorisation) regimes for other forms of distribution. This is broadly consistent with the AVMSD and EMFA approach and Council of Europe standards, which favour regulatory frameworks that avoid unnecessary entry barriers and reduce the scope for discretionary intervention through licensing.

The system includes qualitative considerations linked to market position. While they are legitimate, their use in licensing makes predictability and consistent application particularly important.

In the framework where the regulator also holds significant roles in funding oversight, concentration assessments and PSM governance, licensing discretion can add to cumulative regulatory leverage. Clear criteria, reasoned decisions and effective judicial review therefore remain central safeguards to ensure that licensing functions as a proportionate instrument rather than an indirect channel of influence.

## Polish Press Agency

The Justification treats Polska Agencja Prasowa S.A (PAP) as outside the EMFA definition of a public media service provider, but still describes its independence as crucial for the Polish media market and therefore proposes governance changes aimed at greater independence from external entities.

The proposed amendments redesign PAP's governance rules and add safeguards intended to reduce external influence. They set criteria and procedures for appointment and dismissal of members of PAP Management Board, Supervisory Board and Programme Council. They also add transparency duties (publication of appointment and dismissal decisions with detailed reasons) and narrow dismissal possibilities to specified grounds.

The participation of NGOs, as well as professional associations and foundations, is limited to recommendations and does not extend to decision-making. The robustness of the independence model will depend on how insulated the authorised entity's appointment practice is from political expectations.