

Report on the activities of the National Broadcasting Council in 2021

The National Broadcasting Council (KRRiT) began its six-year term of office on 12 September 2016, with a five-member composition formed by the Sejm of the Republic of Poland, the Senate of the Republic of Poland and the President of the Republic of Poland:

- Witold Kołodziejcki - KRRiT President since 19 September 2016.
- Teresa Bochwic - KRRiT Vice-President since 27 September 2016.
- Members of the KRRiT:
 - Janusz Kawecki
 - Andrzej Sabatowski
 - Elżbieta Więclawska-Sauk.

2021 was the last full reporting period for the National Broadcasting Council of the current term of office, which expires in September this year. The reporting documents presented under the statutory¹ procedure cover all the activities of the KRRiT during this period.

The report of the National Broadcasting Council on its activities in 2021 was adopted by Resolution No. 76/2022 of 19 May 2022. It is available on the KRRiT website:

<https://www.gov.pl/web/krrit/sprawozdanie-i-informacja-z-dzialalnosci-w-2021-roku>

The report contains information on the implementation of the tasks assigned to the National Broadcasting Council² including tasks related to conducting concession proceedings, exercising control over the activities of broadcasters, determining the amount and distribution of licence fees, determining the amount of concession fees, organising international cooperation, issuing executive legal acts in accordance with its authorisations, issuing opinions on legal acts and international agreements in the field of broadcasting, organising research on the content and reception of media services. Of these tasks, the first two - the conduct of licensing procedures and the exercise of program control - are of vital importance in connection with the implementation of the obligation to ensure and protect pluralism in audiovisual media³. In carrying out these tasks, in particular on the basis of the principle of equality before the law and openness of decision-making, the National Broadcasting Council ensures access to audiovisual media for various social groups and fulfils their social needs and expectations in this respect. In the past reporting period, public attention was focused, inter alia, on the activities of the KRRiT related to the so-called re-concession proceedings concerning the re-award of the concession for the distribution by the TVN company of the news program TVN24. Further information on this subject is presented later in this year's report, in Chapter II, point 2.7 et seq.

In accordance with the principle of the broadcasters' independence in shaping their programming and their responsibility for the content presented⁴ and, above all, with the constitutional norm prohibiting all forms of preventive censorship⁵, the control functions of the KRRiT concerning the analysis of the program content offered, must be exercised strictly according to the legal framework in force. Controls

¹ Pursuant to Article 12(1) of the Broadcasting Act of 29 December 1992 (Journal of Laws of 2020, item 805 and of 2021, item 1676.

² Cf Article 6(2) of the Broadcasting Act.

³ Cf. Article 6(1) of the Broadcasting Act.

⁴ Cf. Article 13(1)(2) of the Broadcasting Act.

⁵ Cf. Article 54 of the Constitution of the Republic of Poland.

programming must therefore always be consequential, i.e. only after the broadcast, which for broadcasters constitutes an important guarantee of freedom of expression.

The obligations to respect freedom of expression, the right to information and the public interest in broadcasting are also practically reflected in those activities of the KRRiT which are related to the consideration of complaints and applications and the issuing of regulations as generally binding legal acts and the adoption of resolutions in individual cases. An important legal safeguard, protecting against arbitrariness of actions of the regulatory body, is also the principle of control of decisions issued in court appeal proceedings⁶.

In the government administration, the tasks related to the implementation of the state's audiovisual policy, have been included primarily in the competences of the Minister of Culture and National Heritage, who is also responsible for drafting legal acts concerning this area of socioeconomic life, and exercises ownership supervision over the public broadcasting sector, acting as the General Meeting of Shareholders with regard to 19 public broadcasting companies. Nevertheless, it must be emphasised that the Minister, as the General Meeting of Shareholders, has no powers in the area of programming activities of public broadcasters⁷.

For the National Broadcasting Council, as a body independent of the government and structurally separate from this sphere, the Minister of Culture and National Heritage, being a representative of the government administration, therefore remained the main liaison that ensured the day-to-day coherence of the actions taken at the government level in the field of audiovisual media.

The National Broadcasting Council, together with representatives of the Ministry of Culture and National Heritage, conducted legislative work, which primarily concerned the implementation of the provisions of the amended Audiovisual Media Services Directive into Polish law⁸. The amendment was primarily related to the significant technological changes that have taken place since the previous amendments to the Directive in 2007, 2010 and 2018, in particular the increase in the importance of short-form video, including user-generated content, and the increased market share of video-on-demand providers.

The most important changes also refer to the Introduction:

- Regulations concerning activities related to the provision of content on video-delivery platforms and their inclusion in the jurisdiction of the KRRiT (among other things, the rules for notification of the conduct of such activities or protection against content inciting violence and threatening the proper development of minors have been specified);
- New rules concerning advertising activities in media services;
- Modification of the rules on the promotion of European works in on-demand audiovisual media services⁹ (also an obligation to devote at least 30% of the content of the catalogue of VoD services to European programs, including those originally produced in Polish, and the obligation to give these programs appropriate prominence in the catalogue);

⁶ Cf. Chapter VI.

⁷ Cf. Article 29(2) of the Broadcasting Act.

⁸ Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU 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).

⁹ On-demand audiovisual media services – VoD (video on demand).

- Modification of the provisions concerning obligations to introduce facilities for people with disabilities, including in VoD;
- An extended list of entities obliged to pay fees to the Polish Film Institute (TV broadcasters having their registered office in another EU Member State and earning revenues in Poland).

The process of parliamentary work culminated in the adoption on 11 August 2021 of an Act amending the Broadcasting Act and the Cinematography Act¹⁰.

However, it should be emphasised that the implementation of the provisions of the Audiovisual Directive does not exhaust the legislative needs relating to the Polish media market. Soon it will be thirty years since the adoption of the Broadcasting Act, which has never been amended, if only because of the changes taking place in the audiovisual media in relation to the dynamic development of the market and technical and technological progress. For many years, the National Broadcasting Council has been emphasising the need for comprehensive legal changes, which it also does in the parliamentary forum. In accordance with its competences, while lacking a legislative initiative, the KRRiT conducts advanced project and expert work, submitting its results to the Minister of Culture and National Heritage. By performing expert and supporting tasks, the National Broadcasting Council thus indirectly participates in the process of co-shaping state policy in the field of audiovisual media. However, having no legislative initiative, the KRRiT is not in a position to directly design and take action to amend the existing law. Therefore, the KRRiT transmits information to the Minister of Culture and National Heritage, as the host of the Broadcasting Act, with a request to take it into account in the legislative work undertaken. The KRRiT informed about the prepared proposals for legal amendments in the annual Reports of 2019 and 2020. Due to the work on the implementation of the Audiovisual Media Services Directive, the amendment of the Broadcasting Act to the remaining extent has been postponed. However, the KRRiT expects that the Ministry of Culture and National Heritage will undertake the implementation of the proposals made earlier.

Other tasks of the National Broadcasting Council in the past reporting year were, among others, related to:

- Conducting the procedure of reconciliation of charters and financial and program plans of undertakings in relation to the fulfilment of mission tasks by public broadcasters;
- Exercising control over the use of licence fee funds earmarked to finance the public broadcasters' missionary program activities;
- Carrying out the distribution among public broadcasting companies of the licence fee and compensation from the state budget funds for licence fee revenues lost due to statutory exemptions of certain social groups;
- Conducting investigations into complaints and applications.

The KRRiT's work was carried out taking into account the objectives set out in the KRRiT Regulatory Strategy 2017-2022 and the activities adopted for implementation in the task budget approved

¹⁰ Cf. Chapter II, point 2.20 and further.

by the Sejm and the Senate of the Republic of Poland. The National Broadcasting Council's regulatory strategy for 2017-2022 is available on the KRRiT website¹¹.

An analysis of selected market phenomena and processes can be found in the section *Information on basic problems of broadcasting in 2022*, which is available on the KRRiT website¹². This document was adopted by Resolution No. 75/2022 of 17 May 2022.

In making an introduction to the KRRiT's report on its activities in 2021, it is notable that for the audiovisual media market in Poland, as for all other areas of state, social, economic, cultural, artistic life, it was another year of special challenges caused by the pandemic and its consequences. As in the previous reporting period for 2020, broadcasters and other media market players took a number of initiatives in 2021 to adapt their programme offerings to the challenging conditions caused by the pandemic. A new work system, the abandonment of many program items together with a rapid reshaping of the so-called "frameworks" and the implementation of new forms of communication, with particular emphasis on the information mission, are the most noticeable changes undertaken in the face of the epidemic by radio and television broadcasters in order to meet the new social needs. An analysis carried out as part of the work carried out at the KRRiT deals with all these changes. Its results were made public on the KRRiT website and in an article published in the Yearbook, published by the National Centre for Culture¹³.

In the year under review, the National Broadcasting Council continued initiatives that meet the needs of audiences in the age of the pandemic. Above all, in such difficult times, there is a growing need to have verified information that at the same time reaches the audience quickly. On the importance of finding effective ways to counteract all types of disinformation, the National Broadcasting Council wrote in its study published in December 2020 entitled *Fake news - online disinformation, attempts to counter these phenomena from the perspective of international institutions and in selected EU countries, including Poland*¹⁴. Among other activities undertaken by the KRRiT to, inter alia, prevent disinformation, it is necessary to point out media education, through which Internet users acquire the skills to approach media messages critically¹⁵.

A number of other publications have been made available on the KRRiT website, which provide detailed information on many of the important issues addressed, for obvious reasons, only in summary form in the KRRiT report¹⁶.

One of the studies prepared by the KRRiT in cooperation with researchers from the Nicolaus Copernicus University in Toruń entitled, *Stereotypical or Atypical? The image of women in Polish TV series - mode of presentation, presence, contexts, was published on the EPRA website*¹⁷, in the news section¹⁸. The information there includes a brief discussion of results

¹¹ <https://www.gov.pl/web/krrit/strategie-krrit>

¹² <https://www.gov.pl/web/krrit/sprawozdania-z-dzialalnosci-krrit2>

¹³ Cf. <https://www.gov.pl/web/krrit/zmiany-w-strukturach-programowych-radiowych-i-telewizyjnych-w-obliczu-epidemii-analiza-krrit> and the Yearbook of Polish Culture 2020, National Centre for Culture Warsaw 2020, pp. 170 et seq.

¹⁴ Cf. <https://www.gov.pl/web/krrit/fake-news--dezinformacja-online>

¹⁵ Cf. Chapter VIII, paragraphs 8.1 et seq.

¹⁶ Visit us at: <https://www.gov.pl/web/krrit>

¹⁷ EPRA – Cf. Chapter VII point 7.15.

¹⁸ Cf. https://www.epra.org/news_items/stereotypical-or-non-topical-the-new-polish-report-on-women-in-tv-series

of the study carried out, together with an emphasis on the fact that it was carried out following indicators to measure the presence of women in television programmes, which were developed at ERGA¹⁹.

Another study, entitled, *European and national market for on-demand audiovisual services (VoD). Business and revenue models*, was published as part of a series of publications entitled, *The KRRiT Observer*²⁰. The dynamic growth of the on-demand audiovisual market developed in 2020 with the onset of the pandemic. Streaming services replaced the then defunct cinemas and, deprived of other activities, users spent their leisure time mainly online. The analysis shows the European and Polish VoD market by the types of actors operating on it, the program offer of catalogues, the origin of content or the popularity of specific VoD services.

KRRiT President
/-/ Witold Kołodziejcki

¹⁹ ERGA - Cf. Chapter II, point 7.4 et seq.

²⁰ Cf. <https://www.gov.pl/web/krrit/rynek-uslug-vod-w-polsce-i-europie---nowa-publicacja-krrit>