

Resolution of the National Broadcasting Council (KRRiT) on the use of subscription fee revenues for the fulfilment of the public service mission in 2024

07.02.2024

RESOLUTION No. 40 /2024 of 7 February 2024 on the use of revenue from subscription fees for the fulfilment of the public service mission in 2024

Pursuant to Art. 9 (1) in conjunction with Art. 21 (1) and Art. 31 (4) of the Broadcasting Act of 29 December 1992 and Art. 1 and Art. 8 (1)-(3) of the Subscription Fees Act of 21 April 2005, given the legal chaos created in public service broadcasting by the decisions of the Minister of Culture and National Heritage including those of 27 December 2023 and 29 December 2023, taken in gross violation of the law, on the dissolution of public media companies, their liquidation, the dismissal of their bodies and the appointment of liquidators, the lack of valid completion of the registration procedures for the liquidation of companies that are units of public radio and television, in view of the operation of the legal bodies of these companies, the parallel activity of the "liquidators" increasing the chaos, causing duplication, in protection of public interest, taking into account the consideration of social needs and having regard for the content of the provisions as mentioned earlier of:

1. Article 21(1) of the Broadcasting Act of 29 December 1992, which stipulates that public broadcasting has a public service mission;
2. Article 31(4) of the Broadcasting Act of 29 December 1992, which provides that the revenue from the sources of the subscription fee shall be used exclusively for the fulfilment of the public service mission referred to in Article 21(1) of the Broadcasting Act of 29 December 1992;
3. Article 1 of the Act of 21 April 2005 on Subscription Fees, which provides that subscription fees shall be collected to enable public radio and television to fulfil the public service mission referred to in Article 21(1) of the Broadcasting Act of 29 December 1992.
4. Article 8(1) of the Act of 21 April 2005 on Subscription Fees providing that revenue from subscription fees shall be earmarked exclusively for the fulfilment by public radio and television broadcasters of the public service mission referred to in Article 21(1) of the Broadcasting Act of 29 December 1992, in an amount not exceeding the expenses incurred in connection with the fulfilment of that mission;

as well as:

5. Article 6(1) of the Broadcasting Act of 29 December 1992 providing that the National Broadcasting Council shall safeguard, inter alia, the interest of the recipients of media services;

and:

6. Article 468 § 1 of the Act of 15 September 2000, Code of Commercial Companies providing that liquidators should terminate the company's current interests,

collect debts, fulfil obligations and liquidate the company's assets (liquidation activities). They may only undertake new business if this is needed to complete ongoing affairs for the sake of the interests of the audience in terms of providing them with programmes, creating informative, journalistic, educational, cultural, sports and entertainment content, but also for the welfare of the people employed in the public broadcasting units, as well as for the assets of the public broadcasting units and public property of great value, the National Broadcasting Council,

determines:

§ 1. To authorise the Chairman of the National Broadcasting Council to immediately create a new schedule for the disbursement of funds from subscription fee revenues due to the outdated projections of the subscription fee revenues made in October 2023 caused by the unprecedented actions of the Minister of Culture and National Heritage towards public media companies, with the introduction of chaos and the related anxiety of persons paying the subscription fee manifested by reduced receipts from subscription fees in the month of January 2024 as compared to the planned receipts based on the Schedule of 18 October 2023 forecasting receipts for the year 2024.

§ 2.

Pending the court's final determination of the dissolution of the company that is a public broadcasting entity, the commencement of its liquidation process and the related manner of representation of the company (uncertainty regarding the authority of the person representing the company):

1. Establish the disbursement of funds from the proceeds of subscription fees in 2024 in the proportion adopted by Resolution No. 194/2023 of the National Broadcasting Council of 13 September 2023 based on the schedule established by the Chairman under § 1 of this Resolution, with the date of the first disbursement of funds falling on 12 February 2024 in the total amount of PLN 158,000,000, subject to points 3-7 below.
2. Declare that it is impossible to reconcile in their entirety the statutory tasks of a company being a public broadcasting unit under Article 21.1 of the Broadcasting Act of 29 December 1992 (fulfilment of the public service mission) with the statutory tasks of the liquidators of a company in liquidation under Article 468 §1 of the Act of 15 September 2000, Commercial Companies Code (liquidation tasks).
3. To oblige public radio and television entities to use the subscription fee resources transferred by the National Broadcasting Council exclusively for the fulfilment of the public service mission, in an amount not exceeding the expenses incurred in connection with the fulfilment of that mission and in accordance with the programme and financial plan for 2024 in force for the given company approved by the National Broadcasting Council, and in particular according to the numerical and personal employment status (regardless of the legal form) as of 19 December 2023, as well as not using the funds received from

the National Broadcasting Council for any purposes related to the liquidation process of the public broadcasting unit.

4. Establish supervision over the realisation of the spending by the actual managers of the public broadcasting units of the funds from subscription fee income transferred by the National Broadcasting Council for purposes exclusively related to the fulfilment of the public mission, and entrust this supervision to the Supervisory Board (*Rada Nadzorcza*), the Programme Council (*Rada Programowa*), the Staff Council (*Rada Pracownicza*) or the Trade Unions (*Związki Zawodowe*) operating in the given public radio and television broadcasting unit.
5. To oblige public radio and television units in the persons actually managing the affairs of the company to submit to the National Broadcasting Council (1) by the 15th day of each month before the month to which the disbursement of funds derived from subscription fee revenues is to relate, a statement indicating the specific purposes for which the funds derived from subscription fee revenues are to be used in the month to which the payment provided for in the schedule is to be related, as well as (2) to submit a declaration that the funds received from the National Broadcasting Council from the subscription fee income were allocated in the month preceding the declaration exclusively for the fulfilment of the public mission referred to in art. 21 (1) of the Broadcasting Act of 29 December 1992 in the amount not exceeding in the month to which the statement refers the expenses incurred in connection with the fulfilment of that public service mission and in accordance with the programme and financial plan for 2024 in force for the given company, approved by the National Broadcasting Council, and, that the funds received from the National Broadcasting Council from subscription fee income were not used in the month preceding the declaration to finance the liquidation of the public broadcasting unit concerned, including in particular, but not exclusively, the remuneration of the liquidator, his advisers, attorneys or other persons providing services in the scope of the liquidation being carried out, and to entrust the preparation of a model of those declarations to the Chairman of the National Broadcasting Council.
6. Stipulate, in the event of failure to submit the declarations indicated in point 5 above, the submission of declarations not containing all the elements noted in para. 5 above, submission of declarations with false information, or submission of a statement containing the negative premises indicated in para. 5 *in fine* above, failure of the company, being a public radio and television entity, to demonstrate fulfilment of the requirements provided for in Article 21(1) and Article 31(4) of the Broadcasting Act and Article 1 and Article 8(1)-(3) of the Act on subscription fees, with the consequence that there are no grounds for the National Broadcasting Council to disburse to the company the funds from the subscription fee revenues.
7. The disbursement of funds from the receipts of the subscription fee on the dates foreseen in the schedule established by the Chairman of the National Broadcasting Council based on § 1 of this Resolution for each company which is a unit of public radio and television should be directed to a court deposit in order for them to be taken up on behalf of the company by persons authorised to represent the company.

§ 3.

In the event of a valid court finding that a company which is a public broadcasting unit has been dissolved, that the process of its liquidation has been commenced and that the manner of representation of the company (certainty as to the authority of the person representing the company) is related to this:

1. Establish the disbursement of funds from the proceeds of subscription fees in 2024 in the proportion adopted by Resolution No. 194/2023 of the National Broadcasting Council of 13 September 2023 based on the schedule established by the Chairman pursuant to § 1 of this Resolution, subject to items. 3-6 below.
2. Find it impossible to reconcile in their entirety the statutory tasks of a company which is a public broadcasting unit under Article 21(1) of the Broadcasting Act of 29 December 1992 (fulfilment of the public service mission) with the statutory tasks of liquidators of a company in liquidation under Article 468(1) of the Act of 15 September 2000, Commercial Companies Code (liquidation tasks).
3. To oblige public radio and television entities to use the subscription fee resources transferred by the National Broadcasting Council exclusively for the fulfilment of the public service mission, in an amount not exceeding the expenses incurred in connection with the fulfilment of that mission and in accordance with the programme and financial plan for 2024 in force for the given company approved by the National Broadcasting Council, and in particular according to the numerical and personal employment status (regardless of the legal form) as of 19 December 2023, as well as not using the funds received from the National Broadcasting Council for any purposes related to the liquidation process of the public broadcasting unit.
4. Establish supervision over the realisation of spending by the actual managers of the public broadcasting units of the funds from the subscription fee income transferred by the National Broadcasting Council for purposes exclusively related to the fulfilment of the public service mission, and entrust this supervision to the Supervisory Board, the Programme Council, the Staff Council or the Trade Unions operating in the given public broadcasting unit.
5. To oblige public radio and television units in the persons actually managing the affairs of the company to submit to the National Broadcasting Council (1) by the 15th day of each month before the month to which the disbursement of funds derived from subscription fee revenues is to relate, a declaration indicating the specific purposes for which funds derived from subscription fee revenues are to be used in the month to which the disbursement provided for in the schedule is to relate, as well as (2) to submit a declaration that the funds received from the National Broadcasting Council from the subscription fee income were allocated in the month preceding the declaration exclusively for the fulfilment of the public mission referred to in Art. 21 (1) of the Act of 29 December 1992, the Broadcasting Act, in the amount not exceeding in the

month to which the statement refers the expenses incurred in connection with the fulfilment of that public service mission and in accordance with the programme and financial plan for 2024 in force for the given company, approved by the National Broadcasting Council, and, that the funds received from the National Broadcasting Council from subscription fee income were not used in the month preceding the declaration to finance the liquidation of the public broadcasting unit concerned, including in particular, but not exclusively, the remuneration of the liquidator, his advisers, attorneys or other persons rendering services in the scope of the liquidation conducted, and entrust the preparation of a model of those declarations to the Chairman of the National Broadcasting Council.

6. Stipulate, in the event of failure to submit the declarations indicated in point 5 above, the submission of declarations not containing all the elements noted in para. 5 above, submission of declarations with false information, or submission of a statement containing the negative premises indicated in para. 5 *in fine* above, failure of the company, being a unit of public radio and television, to demonstrate fulfilment of the requirements provided for in Article 21(1) and Article 31(4) of the Broadcasting Act and Article 1 and Article 8(1)-(3) of the Act on subscription fee payments, with the consequence that there are no grounds for the National Broadcasting Council to pay the company funds derived from the subscription fee income.

§ 4.

Specify the mechanism for the disbursement of funds from subscription fee revenues in the year 2024 to public radio and television units placed in liquidation as referred to in § 1 item 2 of Resolution No. 8/2024 of the National Broadcasting Council of 10 January 2024 in the manner specified in §§ 2 and 3 of this Resolution.

§ 5.

To call upon the persons actually in charge of the affairs of Telewizja Polska S.A. and their assistants to cease violating the Charter of Obligations of Telewizja Polska S.A. and to immediately restore the broadcasting of the TVP World channel, as well as to restore the content of the archives of the TVP Info portal and Tygodnika TVP, in accordance with the Charter of Obligations adopted and accepted by the National Broadcasting Council.

§ 6.

The Resolution comes into force on the date of its adoption.

