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COMUNICACIÓN Y SOCIEDAD  
Vol. XXIII • Núm. 1 • 2010 • 205-236

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## The Regulation of Public Broadcasters' News Coverage of Political Actors in Ten European Union Countries

### *La regulación de la información sobre los actores políti- cos en los medios públicos de diez países de la Unión Europea*

Recibido: 2 de septiembre de 2009  
Aceptado: 29 de septiembre de 2009

**ABSTRACT:** *This article presents the results of a comparative research study on the regulation of public broadcasters' political news coverage in ten European countries. The aim of the study was to establish whether any regulation of political pluralism is applied to daily news programmes in both electoral and non-electoral periods. The results for each country and the comparative conclusions are given here. The data reveal that the politicisation of regulation varies according to the use of qualitative or quantitative criteria. The article also describes the political systems for the control of pluralism in each of the ten countries studied.*

**Key words:** *Public broadcasters, regulation, political news, pluralism, European Union*

**RESUMEN:** Este artículo presenta los resultados de una investigación comparada realizada sobre la regulación de la cobertura de la información política en diez operadores públicos europeos. En concreto, el estudio investiga si existe regulación del pluralismo político, tanto para periodos electorales como ordinarios, aplicable a los informativos diarios. Aquí se proporcionan los resultados para cada país y las conclusiones comparadas. Los datos informan de diferentes grados de politización de la regulación, según el uso de criterios cualitativos o cuantitativos. La investigación también describe cuales son los sistemas de control del pluralismo político en los diez países estudiados.

**Palabras clave:** televisiones públicas, regulación, información política, pluralismo, Unión Europea

## 1. Introduction

This article presents the results of a comparative research study carried out between April and December of 2008. The aim of the study was to identify how European public broadcasters ensure political pluralism in the news in both electoral and non-electoral periods.

The concept of political pluralism in the news is studied here from the point of view of the news coverage that public broadcasters give to political actors. The study defines “political actors” as the government, the opposition and national political parties as a whole, and “news” as regular (daily) news programmes in both electoral and non-electoral periods.

The specific objectives of the study were:

- a) Regulation: to establish whether the news coverage that broadcasters give to political actors in their news programmes is subject to any kind of regulation and, if so, to what type of regulation and on the basis of what criteria. In other words, the study examines the legal contexts, the legal frameworks and the protection mechanisms in place.
- b) Control: to identify who the significant actors are in terms of the control of pluralism.
- c) Categorisation: to establish certain types of classification or common approaches to this topic in the countries studied.

The scope of this study does not include party political broadcasts or special political programmes, whether they were electoral or not.

The cases studied were Germany, Belgium (Flemish Community), Spain, Finland, France, Italy, the Netherlands, Portugal, the United Kingdom and Sweden. The cases were chosen on the basis of geographic representation criteria (northern and southern Europe mainly), political significance (including countries with more weight in the European Union) and broadcasting tradition (with various models of broadcasting system)<sup>1</sup>.

The methodology used for the study was based on the following:

– Documentary analysis: searches for similar topics and for national legislation and auxiliary documents (regulations, guidelines, advice, etc.) pertaining to the specific broadcasting authorities in each country.

<sup>1</sup> The slowness or absence of any response from some authorities and sources also determined the final configuration of the sampled countries; that is the reason why, for example, only data for the Flemish Region of Belgium are given.

– In-depth interviews: with representatives from public networks, national broadcasting authorities and journalism and academic groups, as well as media professionals.

– A survey of broadcasting authorities: done via the European Platform of Regulatory Authorities (EPRA).

– Specific questions: put to experts in the academic, business and professional fields (mainly scholars, network directors and journalists).

With regards to existing research, very little recent literature was found on the topic of this study (a comparative study of the regulation of European public broadcasters' political news). Most of the studies found had been either been commissioned by institutions<sup>2</sup> or contained contributions that were significant yet unrelated to the topic of our study<sup>3</sup>.

## 2. Study results

Presented below are the general legal frameworks and specific regulations (when they exist) governing political news coverage in daily news programmes given by state public broadcasters in both electoral and non-electoral periods for each of the countries studied, as are the Control of Pluralism bodies.

<sup>2</sup> For example: ASSOCIATION OF EUROPEAN ELECTION OFFICIALS (ACEEEO), "Media and elections", ACEEEO, Budapest, 2003; THE EUROPEAN INSTITUTE FOR THE MEDIA, "Final Report of the study on the information of the citizen in the EU: obligations for the media and the Institutions concerning the citizen's right to be fully and objectively informed", The European Institute for the Media, Dusseldorf, 2004; LANGE, Bernd-Peter and WARD, David (eds.), *The Media and Elections. A Handbook and Comparative Study*, Lawrence Erlbaum Associates, Mahwah, NJ, 2004. However, two directly related scientific studies were indeed found: LAPORTE, María Teresa and SÁDABA Teresa, "Hacia un nuevo Pluralismo en la Televisión Europea", *Doxa Comunicación*, n° 3, 2005, pp. 143-160; and ESTRADA, Anna, "La supervisió del pluralisme informatiu en la ràdio i la televisió a Europa", *Quaderns del CAC*, n° 26, 2006, pp. 17-27.

<sup>3</sup> HALLIN, Daniel and MANCINI, Paolo. *Comparing media systems: three models of media and politics*, Cambridge University Press, New York, 2004.

**Table 1. Public broadcasters legal frameworks**

<b>Country/ Type of Regulation</b>	<b>Public Broadcasters' Control Bodies</b>
<b>Belgium (Flemish Community)</b> Constitution, Broadcasting Act, Federal Acts, Protection of Philosophical and Ideological Associations Act, VRT's Editorial Statute	VRM
<b>Finland</b> Constitution, Government Activity Transparency Act, Mass Media Act, YLE and Yleisradio Acts, Parties Act, YLE's Internal Code	Internal control
<b>France</b> Constitution, Media Freedom Act, CSA Control Mechanisms	CSA
<b>Germany</b> Constitution, Interstate Broadcasting Treaty, State Broadcasting Acts, ARD/ZDF/Deutschlandradio Statutes and Recommendations	Internal control
<b>Italy</b> Constitution, Parity of Access to the Media in Electoral Periods Act, Gasparri Act, RAI's Service Agreement and Ethical Code, AGCOM Statements	AGCOM
<b>Portugal</b> Constitution, Radio and Television Act, Electoral Acts, Journalistic Coverage of Candidates Act	ERC & CNE
<b>Spain</b> Constitution, State Broadcaster's Act, Autonomous Communities Broadcasting Acts, General Electoral Regime Act	Junta Electoral. One central & three regional authorities
<b>Sweden</b> Constitution Acts, Radio and Television Act, SVT-State Charter, SVT's Internal Guidelines	GRN
<b>The Netherlands</b> Constitution, Media Act	CvdM
<b>United Kingdom</b> Communications Act, BBC's Royal Charter and Agreement, BBC Editorial Guidelines	Internal Control

### 2.1. *Belgium (Flemish Community)*

Belgium is a constitutional monarchy whose political organisation is that of a federal state divided into three regions (Flanders in the north where Dutch is spoken; Wallonia in the south which is French-speaking; and Brussels, its bilingual capital city, where French and Dutch are co-official languages). Information concerning the Flemish Region is given here.

The Belgian Constitution (article 127.1.1.) and the Special Institutional Reform Act<sup>4</sup> establish that broadcasting services should be regulated separately in the Flemish and French-speaking communities. In addition, the Belgian Constitution especially ensures, in addition to freedom of opinion (article 19) and press freedom (article 25), freedom of expression for minorities (the latter being defined as philosophical or ideological) (article 11).

With regard to specific legislation, the Broadcasting Act 2009, in addition to establishing the public service mission of the Flemish broadcaster Vlaamse Radio- en Televisieomroep (VRT), specifies that the Flemish public broadcaster should contribute to forming independent, objective and plural opinions in Flanders<sup>5</sup>.

Besides the above-mentioned regulations, we find federal Acts regulating the broadcasts that the federal government and the Flemish government have a right to make directly on all public television stations<sup>6</sup>, as well as the Protection of Philosophical and Ideological Associations Act of 1973<sup>7</sup>. These governmental broadcasting regulations are the only ones referring to political content, and in Flemish legislation we do not find any regulations on the coverage of political actors in daily news programmes, either in electoral or non-electoral periods.

Besides the general federal and state regulations, the public network VRT is governed by the Beheersovereenkomst (Programme Contract), an internal statute or executive contract between it and the government, which is reviewed every five years.

### 2.1.1. Regulation of political pluralism

*Non-electoral and electoral periods:* The VRT's editorial statute establishes a requirement for impartiality in both non-electoral and electoral periods, specified as follows: (a) Impartiality does not mean that journalists should

<sup>4</sup> Loi Spéciale de Réformes Institutionnelles du 8 Août 1980 or Bijzondere Wet tot Hervorming der Instellingen Van 8 Augustus 1980, article 4.6.

<sup>5</sup> Decreet betreffende radio-omroep en televisie, 2009-03-27/49, article 6.2.

<sup>6</sup> Loi du 18 février 1977 portant certaines dispositions relatives au service public de la Radiodiffusion et de la Télévision; Arrêté royal du 8 juin 1982 relatif à l'émission des communications du Gouvernement national par les Instituts chargés du service public de la radiodiffusion et de la télévision.

<sup>7</sup> Wet waarbij de bescherming van de ideologische en filosofische strekkingen gewaarborgd wordt, 1973-07-16/30.

not be critical, but rather that they should make their personal opinions clear; (b) All points of view should be taken into account and given the opportunity to be broadcast; (c) Impartiality does not require all political parties and opinions to be covered in one broadcast; (d) The more controversial the topic, the more care should be taken to cover opposing points of view, contrasting them immediately; (e) VRT does not need to cooperate on broadcasts that the Flemish or federal governments make through it<sup>8</sup>. In electoral periods, the same principles as those mentioned above apply, but a note is added stipulating that, five weeks before the elections, political actors may only appear in news produced under the editorial responsibility of the VRT's news department<sup>9</sup>.

### 2.1.2. *Control of Pluralism*

The regulations applicable to Flemish public broadcasting are controlled by the Vlaamse Regulator voor de Media (VRM) (Flemish Regulator for the Media), the body which grants licences and controls the content of public and private networks. The VRM also intervenes in disputes and, along these lines, it has issued several resolutions concerning the main political pluralism dispute experienced since its creation as a regulatory body: the coverage of the extremist political party Vlaams Belang (formerly Flaams Blok) by Flemish public television. In one case at least, the VRM has fined the public network since it considered that the public network discriminated against the this extremist group in special electoral programmes by not inviting it to take part<sup>10</sup>. However, the Flemish authority has also developed a criterion to exclude this type of political party without violating the principle of impartiality, applicable to cases in which there is an objective, reasonable justification<sup>11</sup>.

<sup>8</sup> Redactiestatuut met Inbegrip van de Deontologische Code Voor de Journalisten bij de Vrt, June 2007, articles 69, 71, 73 and 102.

<sup>9</sup> Richtlijnen Over de Aanwezigheid van Politici in Infotainment- en Entertainmentprogramma's, guideline n<sup>o</sup> 5.

<sup>10</sup> Vanhecke Case 2007/032 of 26 June.

<sup>11</sup> Vlaamse Regulator voor de Media, Kamer voor Onpartijdigheid en Bescherming van Minderjarigen, F. Vanhecke t. NV VRT, Beslissing nr. 2007/32, 26 June 2007.

## 2.2. Finland

The reference legal framework of the broadcasting system in Finland consists of a series of items starting with the Constitution, which contains the right to freedom of expression and to public broadcasting (article 12), and is developed by two framework Acts establishing content and assurances: The Government Activity Transparency Act 2002 and the Exercising Freedom of Expression in the Media Act 2003<sup>12</sup>. In addition, there is a set of regulations for the broadcasting system, including the public broadcaster Yleisradio (YLE), governed mainly by the Yleisradio Act 1993<sup>13</sup>.

With regard to the public network's internal code, for Finnish public television there are no specific regulations on political news coverage in news programmes either in non-electoral or electoral periods other than the general principles which stem from the Parties Act of 1969<sup>14</sup>, as a consequence of which all political parties must be treated impartially and uniformly, and the previously mentioned 1993 Act, which establishes the content for the public service mission that the broadcaster has to fulfil. The Parties Act further establishes that YLE has to develop programming suited to the principles set out in that Act.

### 2.2.1. Regulation of political pluralism

*Non-electoral and electoral periods:* Besides the mention of impartial and uniform treatment of all political parties in the Parties Act, we find several mentions of the characteristics that regular news coverage should have in YLE's internal code and programming regulations.

These programming regulations drawn up by the broadcaster's board of directors establish, among other guidelines, that YLE's programmes should contain news whose aim is to provide material for the construction of a view of the world based on correct information, conveying facts and observations as accurately as possible. Thus, the guidelines specifically state that YLE should be independent from external influences. Regarding its editorial activities, YLE cannot take sides on matters debated by society and its program-

<sup>12</sup> Laki sananvapauden käyttämisestä joukkoviestinnässä, 460/2003 and Laki viranomaisten toiminnan julkisuudesta, 621/1999, amended in 2002.

<sup>13</sup> Laki Yleisradio Oy 1380/1993.

<sup>14</sup> Puoluelaki 10/1969.

mes must reflect different points of view and promote debate within society as a whole. In addition, YLE has to promote basic social and human values. Regarding accuracy of information, YLE's programmes must be based on truth, relevance and news variety, and the guidelines specifically state that facts should be corroborated in depth. Regarding impartiality, in its content, YLE must present and analyse different critical opinions as broadly as possible. In programming as a whole, impartiality must be fulfilled in programmes of the same type and within a reasonable period of time. The impartiality objective must also be fulfilled in every programme<sup>15</sup>.

There are no specific regulations for news coverage in new programmes transmitted during electoral periods. Only the criteria for non-electoral periods mentioned previously are applicable to electoral periods.

### 2.2.2. *Control of pluralism*

No external body is allowed to inspect content prior to broadcast in line with the constitutional provisions relating to freedom of expression. The exercise of freedom of expression in the Mass Media Act of 2003<sup>16</sup> grants editors-in-chief the power to make decisions and the responsibility for programmes broadcast, thus ensuring institutional autonomy. For its part, YLE's board of directors has a permanent function to oversee the fulfilment of the public service mission, a power which also translates into the submission of reports to parliament, which can be considered as a qualitative appraisal of the operation of the public service supplied by YLE.

It is also necessary to take account of the fact that the YLE board produces annual reports for the broadcasting regulatory authority (FICORA). FICORA does not, however, directly control content or YLE's public service mission, since this independent authority only has powers over the radioelectric and electronic spectrum.

### 2.3. *France*

Besides making explicit reference to the Declaration of Human and Citizens' Rights made in the preamble of the French Constitution, which also

<sup>15</sup> Cfr. ÖSTERLUND-KARINKANTA, Marina, "Finland", in European Audiovisual Observatory, *The Public Service Broadcasting Culture*, European Audiovisual Observatory, Strasbourg, 2007, p. 80.

<sup>16</sup> Laki sananvapauden käyttämisestä joukkoviestinnässä 460/2003.



underscores the rights to freedom of broadcasting and of expression, French broadcasting regulations are contained mainly in specific legislation. By delegation through such legislation, the broadcasting authority (Conseil Supérieur de l'Audiovisuel or CSA) also has important powers.

The legislative framework is the Media Freedom Act of 1986<sup>17</sup>. This Act establishes the most important principles for ensuring that French public and private broadcasters respect political pluralism. Specifically, the 1986 Act (and subsequent amendments) establishes, among other things, that: the CSA is responsible for ensuring political pluralism in special news programmes and daily news programmes; the CSA must provide parliament and political parties with a monthly count of the number of times political actors have appeared in news and other programmes; and the CSA is responsible for establishing the rules relating to electoral period programming.

As a result, the CSA has become the most important regulatory body in matters of pluralism in French public and private broadcasting. This powerful control has led to very little development of French broadcasters' internal codes on matters of pluralism.

### 2.3.1. Regulation relating to political pluralism

*Non-electoral periods:* Protection of political pluralism in French broadcasters' news programmes, as established by the CSA, consists of two elements: a mechanism to distribute time between political actors, which forms a compulsory recommendation for the sector, and subsequent monitoring by means of time counts to ascertain the broadcasters' level of application of the time distribution criteria.

For almost four decades, time was distributed by means of the *Règle des trois tiers* (or Three Thirds Rule, which granted one third of the time to the government, one third to the parliamentary majority and one third to the opposition<sup>18</sup>; a mechanism nuanced in 2000 by the "Reference Principle"<sup>19</sup>). However, in 2009 a new rule was devised due to the changing political context.

<sup>17</sup> Loi 86/1067 du 30 septembre 1986 relative à la liberté de communication.

<sup>18</sup> The Three Thirds Rule was created and first applied by the French public broadcaster in 1969.

<sup>19</sup> This principle essentially built two components into the mechanism: the first is extra-parliamentary parties' fair access to broadcasters and the second is a series of qualitative criteria that aim to compensate for the exclusively mathematical distribution shortcomings of the Three Thirds Rule.

In recent years, the abundance of non-official public statements by President Nicolas Sarkozy had triggered a new controversy over the way such appearances had to be counted (which were not as prolific under previous presidencies). On 8 April 2009, the French Conseil d'État ruled that the President of the Republic's statements could not be ascribed to the government's speaking time but should somehow be taken into account. Consequently, on 21 July 2009, the CSA ruled that a new mechanism based on three pillars should be implemented, beginning with 1 September of the same year in order to:

- a) Take account of the President of the Republic's statements, which, depending on their content and context, could be considered relevant to national political debate. Any statements made by the President in the context of the duties that the Constitution confers on him as Head of State should be excluded from the count.
- b) Simplify the counting methods for the presidential majority by grouping together, into just one bloc called the parliamentary majority, the speaking time of government members, members of the parliamentary majority and collaborators of the Head of State.
- c) Enhance the assurances given to the parliamentary opposition, whose members' speaking time should not, under any circumstances, be less than half the accrued speaking time of the President of the Republic (in statements relevant to national political debate, as specified in section a) above) and presidential majority members as a whole.

With regard to statements by members of parliamentary groups not belonging to the parliamentary majority or opposition, or political groups not represented in parliament, the new CSA procedure stipulates that media editors should ensure that these political actors have fair coverage time, calculated on the basis of these groups' elements of representation (for which the only definitions mentioned are the number of members of parliament obtained and election results).

On the basis of the previously mentioned criteria, the CSA subsequently and regularly counts appearances of political actors in news programmes and, as already stated, informs parliament and political parties of the findings.

*Electoral periods:* In electoral periods, French public and private broadcasters are subject to two types of approaches to political pluralism. One is applied to non-electoral political news, governed by the same principles as those mentioned previously for non-electoral periods, and the other is applied to electoral political news, governed by regulations established *ad hoc* by the CSA for each electoral period.

Regarding the most recent presidential elections (May 2007), the established criteria were: fairness for the first three months prior to the campaign; equality of speaking time and fairness of air time for the following fortnight; and equality of speaking time and air time throughout the campaign. Regarding the most recent legislative elections (June 2007), the CSA established the principle of fairness for all parties, including extra-parliamentary parties, the selection of which was based on the principle of their effective involvement in the campaign<sup>20</sup>.

### 2.3.2. *Control of Pluralism*

The CSA is the body charged, by legal mandate, with controlling and ensuring that French public and private broadcasters respect pluralism<sup>21</sup>. However, the legal mandate does not specifically state how such an assurance should be implemented, even though it does demand quantitative control of it. On the basis of the latter, the CSA has issued a ruling to ensure pluralism through the mathematical principles described above and carries out regular counts of political actors' appearances in news programs to check whether public and private broadcasters are complying with its recommendations and the legal framework in general.

### 2.4. *Germany*

In Germany, the Länder or states have powers to regulate and organise broadcasting services, since it is this country's federal structure that confers responsibility on them for education and culture, the area under which the development of broadcasters falls according to the power regime established under the Constitution. In addition, a framework of general rules can be found in the Rundfunkstaatsvertrag (Interstate Broadcasting Treaty) among other documents<sup>22</sup>. It is an interstate agreement approved by the parliaments of all the Länder that acts as a reference for the sector's actors, both public and private. The starting point for this legal framework is article 5.1 of the

<sup>20</sup> In every case studied, equality always means the same time for all candidates, whatever weight their parties may have in the national assemblies, whereas fairness always means time that is proportional to parliamentary representation.

<sup>21</sup> Loi 86/1067 du 30 septembre 1986 relative à la liberté de communication, article 3.1.

<sup>22</sup> Rundfunkstaatsvertrag, tenth revision of 9 December 2007 (GBl. 2008, S. 237).

German Constitution, which refers to the need to protect freedom of opinion, the right to information, press freedom and freedom of information on radio and television and in cinema. For its part, article 11.3 of the Rundfunkstaatsvertrag states that “Public service broadcasting must, in fulfilling its mandate, take into consideration the principles of objectivity and impartiality of reporting, plurality of opinion and the balance of offerings and programming”.

Therefore, in Germany there are three levels of broadcasting regulation: the mentioned Rundfunkstaatsvertrag containing basic general principles, the Broadcasting Acts of the respective states which are all very similar in terms of their general philosophy, standards and organising principles<sup>23</sup>, and the statutes or guidelines developed by the two main national public television networks (ARD and ZDF) and the national public radio network (Deutschlandradio).

#### 2.4.1. Regulation relating to political pluralism

*Non-electoral periods:* There are no specific regulations at the federal or state level, or public network internal regulations on news coverage of political actors in daily news programmes throughout the year other than the general principles contained in the Rundfunkstaatsvertrag for all broadcasting activities: objectivity, impartiality, balance and plurality of opinion<sup>24</sup>.

*Electoral periods:* The mandate that the Rundfunkstaatsvertrag gives to public networks includes issuing more detailed guidelines, and in this context we find the document *Redaktionell Gestaltete Sendungen zu Wahlen* (Recommendations for Journalists and Editors of News Programmes during Electoral Campaigns). These recommendations must be followed by all ARD consortium broadcasters, the ZDF corporation and Deutschlandradio. The ARD-ZDF legal committee (a committee formed by directors of the legal departments of ARD consortium stations and of the ZDF corporation) is the author, in collaboration with the broadcasters’ directors-general, of these recommendations. In particular, section C (Zusammenfassung) of these

<sup>23</sup> Cfr. OPEN SOCIETY INSTITUTE (OSI), “Television across Europe: regulation, policy and independence”, OSI, New York, vol. 2, Monitoring Reports, 2005; ESTRADA, Anna, “La supervisió del pluralisme...” *op. cit.*, pp. 17-27; and SCHULZ, Wolfgang, Enquiry made via Roberto Suárez, Hans Bredow Institute, Hamburg, 2008.

<sup>24</sup> Rundfunkstaatsvertrag, article 11.3.

recommendations for journalists and editors establishes the following in relation to electoral period programming:

In electoral periods, the function of public broadcasters is to serve both as a means and a factor of forming public opinion. Therefore, in the mentioned context, it seems advisable that in electoral news as a whole, not only should account be taken of small and medium sized political formations, but also of the whole spectrum of political parties running for the elections. All electoral programmes with scripts drafted by the editorial team are, in principle, subject to the balance precept governing programming as a whole, and such balance in terms of time and coverage of topics is all the more important in electoral periods and during elections. The nearer the programme is to the day of the elections, the more the principle of equality of opportunity for political parties running for the elections needs to be taken into account in programme configuration<sup>25</sup>.

The recommendations therefore anticipate a balanced treatment of all parliamentary and non-parliamentary political parties, even though this does not translate into specific time distribution obligations for daily news programmes.

#### 2.4.2. *Control of Pluralism*

The public broadcasters' fulfilment of the above regulations – and all others – is controlled by their internal boards. In other words, the German public broadcasting system does not anticipate external controls over the content of its programmes other than legal action (which political parties who feel they have been discriminated against may take). The state broadcasting authorities, grouped under the umbrella organisation called *Arbeitsgemeinschaft der Landesmedienanstalten (ALM)* (Association of State Media Authorities for Broadcasting in Germany), only have powers of control over private networks.

#### 2.5. *Italy*

The Italian Constitution also establishes freedom of thought and expression, and press freedom in its respective paragraphs (article 21), which are

<sup>25</sup> Redaktionell Gestaltete Sendungen zu Wahlen, section C.

developed in a very prolific specific legal framework, among which one of the most important is the Parity of Access to the Media in Electoral Periods Act of 2000<sup>26</sup>.

The 2000 Act applies *par condicio* (equal air time) to political parties' access to broadcasters. It does not apply to daily news programmes, but rather to special programmes (debates, talks, etc.). To find out what the legislation says about regular news coverage, we need to refer to RAI's most recent legal reform in 2004<sup>27</sup>.

We find a third level of assurance in the broadcasting authority (Autorità per le Garanzie nelle Comunicazioni or AGCOM) created in 1997.

Finally, we find specific mentions of pluralism of a generic nature in both RAI's Contratto di Servizio (Service Agreement) and Codice Etico (Ethical Code).

### 2.5.1. Regulation relating to political pluralism

*Non-electoral periods:* In both non-electoral and electoral periods, RAI's 2004 Act makes a generic call to ensure freedom and pluralism (article 3), though this is the only legal specification that we were able to find that is applicable to general news programmes (the remaining provisions contained in Acts mentioned previously refer exclusively to party political broadcasts or special programmes, such as debates, talks, round tables, etc. outside of daily news). Equally generic is the call for pluralism that we find in the Contratto di Servizio currently in force between RAI and the state (article 2.3).

What indeed is very specifically stated is the obligation that the Act creating AGCOM<sup>28</sup> places on this body to ensure the application of fairness of treatment and parity of access for all public and private operators, and the Act further forces it to monitor political pluralism by counting, as in the French case, the distribution of time devoted to every political actor (article 1.6.b.9). Unlike the French case, AGCOM has not defined strictly quantitative time distribution rules for operators, but rather permanent controls over the time devoted to political actors. It publishes the findings in the form

<sup>26</sup> Legge 22 febbraio 2000, n° 28: Disposizioni per la parità di accesso ai mezzi di informazione durante la campagne elettorali e referendarie e per la comunicazione politica.

<sup>27</sup> Legge Gasparri - Legge 3 maggio 2004 no. 112: Norme di principio in materia di assetto del sistema radiotelevisivo e della RAI-Radiotelevisione italiana.

<sup>28</sup> Legge 31 luglio (31 July) 1997, no. 249; Istituzione dell'Autorità per le garanzie nelle comunicazioni e norme sui sistemi delle telecomunicazioni e radiotelevisivo.

of minutes (Delibera) that constitute an element of pressure on operators, which can end up being judged negatively on the basis of these counts.

The latest minutes at the time of undertaking this research, referring to October 2008, reported that the count highlighted an imbalance in the government's favour and invited broadcasters to redress the balance of news "by adhering more strictly to the general principles of exhaustiveness and accuracy, objectivity, fairness, impartiality and equality of treatment, even in non-electoral periods"<sup>29</sup>. We also find a call for "objectivity, fairness, loyalty, impartiality and plurality of points of view, as well as parity of treatment" in a decision taken in 2006 and published after a count outside electoral periods<sup>30</sup>.

Finally, RAI's Codice Etico stipulates that RAI must represent all political stances in a balanced way (article 2.2.1.c.).

*Electoral periods:* The above is equally as valid in electoral periods, with the addition of a recommendation that AGCOM issues for each campaign, which is also applicable to all public and private operators. For example, the Delibera issued prior to the April 2008 elections for the Italian Chamber of Deputies and the Senate states that the criteria of fairness of coverage and parity of access must be followed<sup>31</sup>. However, the criterion of fairness is applied in a very broad sense, and does not only include parties already represented. For example, the mentioned Delibera states that for the first round, which goes from the announcement of elections to the presentation of candidates, there must be equal amounts of news about all political forces wishing to take part, even though they are not represented in the house for which they are running but are represented in the other (Senate or Chamber of Deputies) or in the European Parliament.

### 2.5.2. *Control of Pluralism*

Public broadcasting pluralism control falls to AGCOM with regard to content topics as we have seen, but the broadcasting authority is not alone in its task of overseeing matters. A parliamentary committee (Commissione parlamentare per l'indireizo generale e la vigilanza dei servizi radiotelevisivi) is in charge of applying regulations to RAI and of monitoring. In fact, AGCOM has to inform this committee of its counts and decisions.

<sup>29</sup> Monitoraggio del pluralismo politico (aprile-settembre 2008), 17 October 2008.

<sup>30</sup> Delibera no. 22/2006/CSP.

<sup>31</sup> Delibera no. 73/08/CSP.

## 2.6. Portugal

The legal framework of Portugal's broadcasting system starts with the constitutional assurance of the following principles: freedom of expression and information (also containing the right to reply and rectification), and public service broadcaster and press freedom (article 37 and article 38). Furthermore, the Constitution establishes guidelines for the regulation of public service broadcasting in a particularly direct way, by stipulating the creation of an independent authority with specific powers (article 39).

With regard to specific legislation, the *Rádio i Televisão de Portugal, S.A. Act of 2007* reorganises the whole nature of public broadcasting in Portugal<sup>32</sup>. However, public service broadcasting's core mission of ensuring a plurality of opinions comes from the Constitution (article 38.6).

### 2.6.1. Regulation relating to political pluralism

*Non-electoral periods:* In both non-electoral and electoral periods, the most characteristic feature of the Portuguese case is the Constitution's assurance that all political parties present in the Assembly of the Republic have a right to air time and to reply, or political reply, for a duration and prominence in accordance with their representation (articles 39 and 40). However, in every case, this air time refers to programming slots that political parties are entitled to and whose content they produce themselves. Regarding the editorial treatment of political news in public network news programmes, no specific regulations were found other than the demand for public broadcasters' independence, which, in line with what was mentioned previously, stresses the protection of pluralism by offering the opportunity to express and challenge different currents of opinion via public broadcasters (through the allocation of the mentioned air time).

*Electoral periods:* Regarding the editorial treatment of candidates and news content in electoral periods, legal sources refer to the supremacy of the principles and obligations of equal treatment without discriminating between the parties, and to neutrality and impartiality. The regulations for presidential elections and those for the process of election of Assembly members

<sup>32</sup> Lei no. 8/2007 de 14 de Fevereiro (Lei que procede à reestruturação da concessionária do serviço público de rádio e televisão).



stipulate a non-discriminatory editorial treatment of candidates<sup>33</sup>. More recent Acts like the one establishing the guidelines for the elections of local government representatives<sup>34</sup> contain similar guidelines. In the case of the previous Act, for example, article 49 mandates non-discriminatory treatment of candidates.

For a definition of “non-discriminatory editorial treatment”, it is necessary to take a look at the electoral regulations in force. These regulations refer in turn to the 1975 Act concerning editorial treatment that the media must give to candidates running for the Constituent Assembly<sup>35</sup>. According to article 1.23 of this Act, equality of treatment must be translated into the criteria that such editorial reporting should observe in relation to news or reports of facts or events of identical importance.

### 2.6.2. *Control of Pluralism*

Pluralism is controlled by different bodies depending on the period. In non-electoral periods, the mission of the Entidade Reguladora para a Comunicação Social (ERC) (Broadcasting Regulatory Authority) is to foster cultural pluralism and diversity of expression of the different currents of thought by those bodies providing public service broadcasting activities and over which it has authority. Overseeing public service television's respect for pluralism is a permanent task of the ERC. To that end, the body has developed a regular appraisal system, containing both quantitative and qualitative elements, to establish the presence of the main political actors (mainly the government and political parties, whether or not they have parliamentary representation) in productions broadcast by public service broadcasters (account is taken of daily news programmes, like news bulletins and interview and debate and/or opinion programmes).

In electoral periods, the ERC works in conjunction with the Comissão Nacional de Eleições (CNE) (National Electoral Commission), the latter of which has authority over broadcasters in areas that also relate to the protec-

<sup>33</sup> Decreto-Lei 319-A/76, de 3 de Maio (Lei Eleitoral do Presidente da República), article 54 and Lei no. 14/79, de 16 de Maio (Lei Eleitoral para a Assembleia da República), article 64, respectively.

<sup>34</sup> Lei Orgânica no. 1/2001, de 14 de Agosto (Lei que regula a eleição dos titulares dos órgãos das autarquias locais).

<sup>35</sup> Decreto Lei 85-D/75, de 26 de fevereiro (26 February) (Tratamento jornalístico das candidaturas).

tion of pluralism (neutrality, non-discrimination, equality of treatment, etc.).

## 2.7. Spain

Spain is a constitutional monarchy divided into 17 autonomous communities which have their own regulatory powers. Despite the existence of a common legal framework, the autonomous communities have powers to develop framework regulations and community-specific Acts and structures, all of which translates into a potential for unique scenarios to arise. On the issue in question, the main imbalance found at the time of writing this article is connected with the inexistence of a broadcasting authority at the central, State level, whereas broadcasting authorities did exist in some autonomous communities.

Besides article 20 of the Spanish Constitution, which protects rights relating to freedom of expression, article 1 specifically protects political pluralism. Similarly, provision 27 of article 149 of the Constitution refers to the exclusive power of the State when it comes to establishing basic regulations for the broadcasting regime and, in general, all public service broadcasters, without prejudice to the powers of the autonomous communities.

In addition to the above, we find references applicable to news coverage in regulations governing state public broadcasting<sup>36</sup> and in the respective regulations governing autonomous community public broadcasters. However, a particular feature of the Spanish case is that it is the Junta Electoral (Electoral Board) that has the final say on matters of news coverage during electoral periods.

### 2.7.1. Regulation relating to political pluralism

Non-electoral periods: All state and autonomous community regulations refer to the need to facilitate access to public broadcasters for all significant political groups, whose significance should be defined on the basis of criteria such as parliamentary representation. Exceptionally, as in the case of the Autonomous Community of Aragon's Broadcasting Act, regulations also include access for political groups of "lesser significance"<sup>37</sup>.

<sup>36</sup> Ley 17/2006, de 5 de junio, de la radio y la televisión de titularidad estatal.

<sup>37</sup> Ley 8/1987, de 15 de abril, de creación, organización y control parlamentario de la Corporación Aragonesa de Radio y Televisión, article 21.

Strictly speaking, however, neither State nor autonomous community public broadcasters' news on political actors is subject to any specific regulation other than commonly established general principles and assurances. Thus, in both Ley 17/2006, de 5 de junio, de la radio y la televisión de titularidad estatal (State Broadcaster's Act of 2006) and the regulations governing autonomous community public broadcasters, the only reference to news coverage can be found in virtually identical mentions relating to respect for freedom of expression and objectivity, truthfulness and impartiality of information. This obligation is established for the state broadcaster as follows: "To ensure objective, truthful and plural information, which should fully comply with the criteria of professional independence and political, sociological and ideological pluralism"<sup>38</sup>.

*Electoral periods:* Electoral legislation is what, in practice, determines political and electoral news coverage during electoral periods in Spain. Specifically, article 66 of the LOREG (General Electoral Regime Act)<sup>39</sup> establishes public broadcasters' obligation to ensure that political and social pluralism is respected, as is the broadcasters' neutrality. However, even though the LOREG establishes that it is the public broadcasters' administrative bodies' responsibility to set the news coverage criteria for the electoral period, in the same article it further establishes that appeals can be lodged against these criteria with the competent Junta Electoral, as decided by the Junta Electoral Central (Main Electoral Board). Therefore, the regulation of political and electoral news coverage in these periods basically comes under the authority of the Junta Electoral Central.

Appeals are often lodged with the Junta Electoral Central and, up to 2009, it has always applied the same criterion, which consists in putting news on the same level as party political broadcasts. Therefore, when a political party lodges an appeal with the Junta Electoral Central, this Junta forces the state or autonomous community public broadcaster against which the appeal has been lodged to distribute electoral news coverage time in daily news programmes in a way that is directly proportional to the results obtained by each party in the previous elections. Even though the criterion of the Junta Electoral Central is observed in the majority of cases, because a right to appeal exists, some autonomous community bodies have developed alternative formulas in an attempt to avoid complaints by political parties (as is the case for the Catalan Broadcasting Corporation<sup>40</sup>, which establishes ma-

<sup>38</sup> Ley 17/2006, de 5 de junio, de la radio y la televisión de titularidad estatal, article 3.b.

<sup>39</sup> Ley Orgánica 5/1985 de 19 de junio, del Régimen Electoral General.

<sup>40</sup> Corporació Catalana de Mitjans Audiovisuals.

thematical time distribution ranges responding to a nuanced proportionality that reduces differences between the parties).

### 2.7.2. *Control of Pluralism*

At the State level and in all autonomous communities that do not have a broadcasting authority, at the time of writing this article<sup>41</sup>, the task of overseeing public broadcasters' political pluralism fell to state and autonomous community governments. In the autonomous communities of Catalonia, Andalusia and Navarra, pluralism is controlled by broadcasting authorities (Consell Audiovisual de Catalunya, Consejo Audiovisual de Andalucía and Consejo Audiovisual de Navarra).

That said, the legal authority that the Electoral Act confers on the Junta Electoral makes it a *de facto* control actor and the ultimate arbiter of political pluralism in Spain.

### 2.8. *Sweden*

The Swedish Constitution is unique in that it is formed by four fundamental Acts, two of which are directly connected with press freedom<sup>42</sup> and freedom of expression<sup>43</sup>. Taking the above as a point of reference, specific broadcasting regulations are contained in the Radio and Television Act of 1996<sup>44</sup>.

The 1996 Act takes the previously mentioned fundamental Acts as references for pluralism and represents one of the most restrictive Acts on matters of protection of minors in the whole of Europe, which is the most significant feature of it.

#### 2.8.1. *Regulation relating to political pluralism*

*Non-electoral and electoral periods:* In both non-electoral and electoral periods, Swedish regulations are not very specific on matters of pluralism and do not make any distinction between one period and the other.

<sup>41</sup> The General Broadcasting Act or Ley General del Audiovisual, in the process of being passed by the Spanish parliament, contemplates the creation of a state-wide independent broadcasting authority (Consejo Estatal de Medios Audiovisuales).

<sup>42</sup> Tryckfrihetsförordningen, SF 1949: 105.

<sup>43</sup> Yttrandefrihetsgrundlag, SFS 1991: 1469.

<sup>44</sup> Radio-och TV-lag, 1996: 844.

The Radio and Television Act of 1996 generically establishes assurances regarding content, for which it demands objectivity, impartiality and respect for freedom of expression and information<sup>45</sup>. One of its articles establishes, as its only reference to pluralism, that news content must not favour any political or religious option or labour interests<sup>46</sup>.

At a lower regulatory level, the charter between SVT and the State expresses much more concern for the task of overseeing political actors, for which SVT is made responsible, than for news coverage of those political actors. In particular, the charter states that the main task of SVT is “to scrutinise authorities, organisations and private firms which exert influence over policy affecting the public, and cover the activities of these and other bodies”<sup>47</sup>. Along these lines, the agreement, starting with the preamble, ensures SVT’s independence from pressure groups, political groups and commercial interests.

Regarding broadcasting authorities, there are two in Sweden, one of which is the Granskningsnämnden för radio och TV (GRN) (Swedish Broadcasting Commission). This broadcasting authority specifies that all operators should be governed by norms of impartiality, accuracy and protection of privacy<sup>48</sup>.

Finally, SVT’s Redaktionen riktlinjerin (Internal Guidelines) also ensure SVT’s independence and impartiality without going into any further detail.

### 2.8.2. *Control of Pluralism*

The GRN and the Radio och TV Verket (RTVV or Swedish Radio and TV Authority) are the two bodies responsible for overseeing the generic principles of impartiality and of not favouring any political option in broadcasting. However, only the former of the two does so in relation to licences granted directly by the government, as is the case for the public broadcaster.

### 2.9. *The Netherlands*

Albeit not very exhaustive, the Dutch Constitution contains mentions of press freedom, the freedom of opinion and the prohibition of prior censorship,

<sup>45</sup> Radio-och TV-lag, 1996:844, chapter 3, section 1.

<sup>46</sup> Radio-och TV-lag, 1996:844, chapter 6, section 5.

<sup>47</sup> “Sändningstillstånd 2007-2009”, article 9.

<sup>48</sup> “Regler för Radio och TV”. Link in English: [http://www.grn.se/grn/pages/Page\\_3716.aspx](http://www.grn.se/grn/pages/Page_3716.aspx) [Last visited: September 2009]

which is explicitly forbidden for radio and television (article 7). The specific Act developed by the legal framework for broadcasting is the Media Act of 1987, amended most recently in 2008<sup>49</sup>, in which the only effective provisions referring to content are the ones already existing in the Television without Frontiers Directive on matters of European production plus several specifically Dutch elements for the protection of its languages (Dutch and Frisian) and the type of programming mandated (at least 50% of all public and private operators' programmes must be news, cultural and educational programmes).

### 2.9.1. Regulation relating to political pluralism

*Non-electoral and electoral periods:* The legislation does not establish any kind of content regulation in either non-electoral or electoral periods other than that mentioned previously. The only stipulation that the Media Act makes regarding political news is that it cannot, under any circumstances, be sponsored for either public service or commercial broadcasters. The legislation does not contain any mention to political pluralism other than the assurance demanded by the Media Act to provide, at all times, a balanced image of the pluralism of Dutch society. In other words, a balanced image of the diversity of its interests, beliefs and attitudes in social, cultural and ideological areas<sup>50</sup>.

### 2.9.2. Control of Pluralism

Control of pluralism in public broadcasting falls to the Commissariaat voor de Media (CvdM) (Dutch Media Authority). Among many other things, the CvdM is in charge of controlling content. Furthermore, its main concerns are that legal regulations referring to advertising, sponsorship and national, independent and European production quotas are fulfilled. It also ensures that programming has the right balance between news, cultural and education programmes and entertainment programmes, as laid down by law.

## 2.10. United Kingdom

The general regulations referring to broadcasters in the United Kingdom include the Communications Act of 2003 (Chapter 21), the Act which

<sup>49</sup> Wet van 29 december 2008 tot vaststelling van een nieuwe Mediawet (Mediawet 2008).

<sup>50</sup> Mediawet 2008, article 2.2.1.b.

mandated the creation of the Office of Communications (Ofcom), or regulatory authority, and which established the demand for broadcasting services to approach news with criteria of due impartiality and accuracy (article 319). This Act also stipulates that Ofcom is responsible for drawing up a specific code on the principles that should govern broadcasting services. This code, the Ofcom Broadcasting Code, includes the need to pursue values like due impartiality, due accuracy, fairness, the avoidance of undue prominence of views and opinions and the protection of privacy (Section 5, 6, 7 and 8)

However, the 2003 Act establishes that Ofcom will only have those powers over the BBC that the BBC's Royal Charter and Agreement permits (section 198). The version of the Charter and Agreement in force (June 2006) stipulates that "The BBC shall be independent in all matters concerning the content of its output, the times and the matter in which this is supplied, and in the management of its affairs" (article 6.1).

For this reason, Ofcom does not have powers over the BBC on the matters being studied here, either in non-electoral or electoral periods. In this and many others respects, the BBC is governed by self-regulation. In other words, the BBC develops its own operating and control regulations.

### 2.10.1. Regulation relating to political pluralism

The basic general principles relating to political impartiality that the BBC must observe are stipulated in the first instance in the Charter and Agreement, but the detailed guidelines can be found in the BBC Editorial Guidelines, a document drawn up by the BBC's Editorial Policy team<sup>51</sup>. In this document, chapter 10 (Politics and Public Policy) establishes what the BBC's specific commitments are on matters of news coverage in both electoral and non-electoral periods.

*Non-electoral periods:* In particular, Chapter 10 of the BBC Editorial Guidelines, which refers to the coverage of political news, calls on the principle of impartiality as a common feature of all action while stressing the importance of an appropriate representation of the diversity of political parties

<sup>51</sup> The author of this chapter is the BBC's Chief Adviser Politics. An in-house position, the Chief Adviser Politics is responsible for the BBC's editorial neutrality. The position is currently held by a former BBC journalist. The Chief Adviser Politics is responsible for dealing with complaints about partial treatment in political news and for interpreting the BBC's Editorial Guidelines on matters of political news.

from the national territories of the United Kingdom. The document does not establish any quantitative distribution of time to ensure these objectives are fulfilled, though it does state that the Chief Adviser Politics should be consulted regularly if journalists have any doubts. Referrals are mandatory under two circumstances at least: long interviews of any of the main political party candidates, and the treatment and dissemination of any type of election poll or political opinion poll.

*Electoral periods:* The BBC Editorial Guidelines also establish that for each election period certain criteria governing the participation of candidates in each constituency or electoral area need to be approved. This document, also drawn up by the Chief Adviser Politics, is presented to the Electoral Commission (for information), and in recent elections it was found that the list of political parties the BBC promised to cover matched the list of political parties designated by Ofcom, and that the obligation to allow all candidates to have a say was demanded if coverage was given to news on a particular candidate. Regarding time distribution, the Election Guidelines for the local elections being held on 1st May 2008 stated that “Whilst the majority of coverage is likely to be about the main parties, care must be taken to ensure that other political parties and independent candidates also receive appropriate coverage”<sup>52</sup>. Regarding how appropriate coverage is measured, the document states: “Previous electoral support in equivalent elections is a starting point for making judgements about the proportionate levels of coverage. However, other factors will be taken into account, including more recent evidence of variation in levels of support in elections since then, changed political circumstances (e.g. new parties, or party splits) as well as other evidence of current support”<sup>53</sup>.

### 2.10.2. *Control of Pluralism*

As already mentioned, Ofcom does not have powers over the BBC on matters of content and it is the BBC itself which establishes internal control mechanisms. The body acting as the guarantor of all the above is the BBC Trust, created in 2006 following the BBC’s reorganisation. The BBC Trust is

<sup>52</sup> “BBC Editorial Policy. Election Guidelines for the elections being held on 1st May 2008”, article 2.1. Link: <http://www.bbc.co.uk/guidelines/editorialguidelines/advice/election/> [Last visited: September 2009].

<sup>53</sup> *Ibid.*



the sovereign body that oversees the fulfilment of the BBC's public service mission and approves internal codes. If complaints are made by political parties, the BBC Trust assesses them. Complaints can also be made to Ofcom, which decides whether it is necessary to perform an assessment, a situation that has not occurred to date in relation to political party complaints at least (Ofcom cannot undertake a review of the BBC unless there is an external complaint)<sup>54</sup>.

In addition, since 2001, the BBC has begun to count air time devoted to each political party in news coverage in order to assess, internally, to what extent the criteria of balance and impartiality are fulfilled. However, it can only do this once general election periods have ended.

### 3. *Comparative analysis and resulting approaches*

This analysis of the regulation of public broadcasters' news coverage of political actors –government, opposition, and national political parties in general– in the ten countries studied seeks to establish whether such news coverage is subject to any type of regulation in both non-electoral and electoral periods and, if so, what the nature of such regulation is and who the legal actors are. These questions have been answered in the previous section for each individual country. A comparative analysis of the data obtained is given below.

#### 3.1. *Instruments for the protection of pluralism*

First of all, the analysis of the legal frameworks tells us what the most common political pluralism protection instruments are in the ten cases studied here. These instruments are: constitutions, specific legislation, broadcasting authorities and the networks' internal regulations or codes.

Whereas every country's constitution and/or specific legislation refers to protection of pluralism, in some cases electoral or political party legislation also constitutes a direct or indirect pluralism regulator (Spain, Portugal and Finland). Regarding broadcasting authorities, in some countries these actors play a leading role in the prior definition of the legal framework (Germany, Italy and France). The same is the case for networks' internal codes, which

<sup>54</sup> BAILEY, Ric, Personal Interview, BBC, London, 8 October 2008.

are more important when there is less external regulation (the most representative case here being the BBC in the United Kingdom).

### 3.2. *Ways of implementing regulation*

Secondly, conclusions can be drawn from the analysis of the instruments mentioned previously regarding the ways in which regulation is implemented. There are two main ways of implementing regulation: the use of qualitative and/or quantitative criteria.

For qualitative criteria, we are referring to the use of generic criteria (objectivity, impartiality, independence, non-discrimination, accuracy, etc.), which may be very precise yet do not involve any possible quantification, be it implicit or explicit. Above all, these criteria relate to the quality of editorial information, and therefore they can be considered to be of a professional nature. To a lesser or greater extent, we find them in all the cases studied.

For quantitative criteria, we are referring to the use of specific proportional or equal distribution of time, which may involve quotas, slots or mathematical distributions of time. In this case, the criteria can be implicit (with references to fairness, equality, balance, etc., always in relation to the number of parliamentary seats) or explicit (with references to proportionality and/or the distribution or mathematical count of time). Only in two cases are they really explicit: in France in non-electoral periods and in Spain in electoral periods.

Quantitative criteria were found to be applied at two particular times: before, as recommendations or guidelines that need to be fulfilled, and after, as a measure for monitoring and follow-up. Above all, quantitative criteria are related to the political parties' concern that time should be equally and proportionally distributed among political forces, and therefore they can be considered to be of a political nature.

### 3.3. *Mechanisms for Control of Pluralism*

Thirdly, the analysis also reveals the control mechanisms employed to ensure political pluralism is respected whatever the level of control. Monitoring can be external or internal. External monitoring is undertaken by independent external actors and internal monitoring is undertaken by the public broadcasters themselves or by the political authorities controlling them.

Broadcasting authorities are the main external control instrument in half of the cases studied (Flemish Community of Belgium, France, Italy, the Ne-

therlands and Sweden). In Portugal, the broadcasting authority is the main control body, but not the only one, since the CNE (National Electoral Commission) has powers to safeguard broadcasting pluralism in electoral periods. Public broadcasters in the remaining countries are not subject to regulatory authority control, and monitoring is performed internally: in the case of Spain, a nationwide regulatory authority did not exist at the time of closing this study and legislation confers a key role on the Junta Electoral; in the case of Germany, Finland and the BBC in the United Kingdom, broadcasting authorities do not have powers over public networks (though there may be occasional controls under exceptional circumstances).

### 3.4. Approaches to regulation

On the basis of the above, we are able to build a categorisation scheme for the ten cases studied according to the types of criteria and types of control implemented for each period analysed (electoral and non-electoral). The data are summarised in the following table:

**Table 2. Public television broadcasters' Daily News programme coverage of political actors**

Regulation in non-electoral periods	
Qualitative criteria only	Quantitative criteria as well (implicit or explicit)
<i>Germany</i>	<i>France</i> (CSA: Three Thirds Rule and Reference Principle)
<i>Belgium (Flemish Community)</i> <i>Spain</i> <i>Finland</i> <i>Italy</i> <i>The Netherlands</i> <i>Portugal</i> <i>United Kingdom</i> <i>Sweden</i>	

Control in non-electoral periods		
Internal	External	
Qualitative	Qualitative	Qualitative and Quantitative
Germany Spain Finland United Kingdom	Belgium (Flemish)(VRM) The Netherlands (CvdM) Sweden (GRN)	France (CSA) Italy (AGCOM) Portugal (ERC)

Regulation in electoral periods	
No specific regulation	Specific regulation
<i>Belgium (Flemish)</i> (all points of view equally) <i>Finland</i> (impartial and uniform treatment) <i>The Netherlands</i> (social balance without parliamentary reference) <i>Sweden</i> (impartiality)	<i>Germany</i> (Internal: non-discriminatory balance and equality) <i>Spain</i> (Junta Electoral: proportional to votes) <i>France</i> (CSA: parliamentary fairness and equality) <i>Italy</i> (AGCOM and internal code: parliamentary fairness) <i>Portugal</i> (Legislation: non-discrimination and equality) <i>United Kingdom</i> (Internal to the BBC: balance and parliamentary reference)

Control in electoral periods		
Internal	External	
Qualitative	Qualitative	Qualitative and Quantitative
United Kingdom	Belgium (Flemish)(VRM) The Netherlands (CvdM) Sweden (GRN)	France (CSA) Italy (AGCOM) Portugal (ERC)

Internal		External	
Qualitative	Qualitative and Quantitative	Qualitative	Qualitative and Quantitative
Germany Finland Spain	United Kingdom	Belgium (Flemish)(VRM) The Netherlands (CvdM) Sweden (GRN)	France (CSA) Italy (AGCOM) Portugal (ERC and CNE)

NOTE: The Spanish case differs according to autonomous community. The table only shows what is applied to national public broadcasting.

From this categorisation, we are able to identify two trends or approaches to pluralism regulation of the studied public broadcasters' news coverage, taking account of the editorial or political nature of the instruments employed. Above all, the approaches to regulation differ in terms of their level of politicisation, which may be high or low.

First of all, with a high level of politicisation, we find those countries in which pluralism regulation incorporates explicit quantitative elements into one or other of the periods studied. Here we can assert that the level of politicisation is high because these explicit quantitative criteria mean that professional or editorial criteria are subordinate to political criteria. This is the

case in France, with the Three Thirds Rule imposed by the CSA, and in Spain, with exact proportionality imposed by the Junta Electoral.

It is worth mentioning, however, that the French case has been attenuated with nuances brought to the Three Thirds Rule by the Reference Principle, and that in electoral periods the criteria for campaign coverage are only implicitly quantitative (reference is made to fairness and equality without any mathematical specification). That said, regulation in France is the most politicised in non-electoral periods since the division of political information into three thirds throughout the year (for the government, the parliamentary majority and the opposition) constitutes the basic criterion for non-electoral political news. As far as the Spanish case is concerned, even though it is not regulated in non-electoral periods, it is the most politicised in electoral periods (the criteria are imposed by the Junta Electoral in response to appeals lodged by political parties).

In addition, the quantitative control performed in some countries after electoral periods, be it by broadcasting authorities (France, Italy and Portugal) or by the broadcasters themselves (United Kingdom) has only had an impact on regulation in France, where it is the regulatory authority itself that establishes the criteria for coverage regulation.

With a low or very low level of politicisation we find those countries in which regulation and control is only qualitative, therefore tending more towards emphasis on editorial criteria, and in which there is no specific regulation in electoral periods. The same criteria are applied to electoral periods as to non-electoral periods, the aim of which is almost always to treat all interests, points of view, ideologies, etc. equally. This is the case for the Flemish community of Belgium, Finland, Sweden and the Netherlands. We can assert that their regulation of political news coverage is not very or hardly at all politicised because this regulation is rather more concerned with a distancing from political actors (Flemish Community of Belgium), independence from external influences (Finland) and no prior censorship (Netherlands), and even with emphasis on overseeing political actors themselves (Sweden) instead of controlling news coverage of political actors.

Half way between the two we find those countries in which, without employing quantitative criteria, political regulation is a concern in electoral periods. In other words, they have implicit quantitative references yet with very different sensitivities. In Italy and the United Kingdom, regulation aims to pursue fairness and balance, taking parliamentary representation as a reference (more strictly in Italy and more nuanced in the United Kingdom) without these criteria actually being specified in terms of mathematical time distribution ranges in either case. This, however, is the only similarity between the

two countries. While Italy has an extensively developed legal framework and a very active broadcasting authority both pre and post elections, the BBC is the most highly developed case of self-regulation and self-control.

Germany's and Portugal's criteria also have implicit quantitative references, but in this instance relating to equality and non-discrimination regarding political options. For this reason, despite the prevalence of political criteria over editorial criteria that these references encompass, the desire to counteract the tendency to favour dominant political forces places these countries closer to those that we have categorised as having a low level of politicisation of political news regulation.

#### 4. Conclusions

Public broadcasters' daily news coverage of political actors in the ten cases studied is subject to a variety of regulation criteria but, on the whole, it can be asserted that parliamentary representation of the political actors only constitutes a determining criterion in two cases (France and Spain), whereas it is a reference used more or less as a nuanced and far-removed guide in two others (Italy and the United Kingdom). Elsewhere, even though the relationship of political forces is obviously an underlying reality, the regulations place more emphasis on equality and non-discrimination or refer to qualitative criteria of an editorial nature aimed at ensuring impartiality, independence, objectivity and accuracy in both electoral and non-electoral periods.

From the point of view of the politicisation of regulation, when political criteria prevail over professional criteria, the findings of this study are, to a considerable extent, consistent with the classification of media systems developed by Hallin and Mancini<sup>55</sup>. This consistency is particularly evident in the most extreme cases: countries where our study shows that regulation is less politicised (Belgium, the Netherlands, Finland and Sweden) correspond to those situated by Hallin and Mancini in the north European model with a high level of professionalisation and self-regulation; and countries where our study shows that regulation is more politicised (France and Spain) correspond to those belonging to the Mediterranean model defined by Hallin and Mancini as being less professionalised and having more instrumentalisation of the media by political parties.

<sup>55</sup> HALLIN, Daniel and MANCINI, Paolo, *Comparing media systems... op. cit.*

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## Funding

This study was supported by the Corporació Catalana de Mitjans de Comunicació (Catalan Broadcasting Corporation) and the Autonomous University of Barcelona's Institute of Communication (InCom-UAB), under the supervision of Miquel de Moragas i Spà.

## Acknowledgments

We would like to thank everyone interviewed or contacted throughout this study: Alessandro D'Arma (Westminster University, United Kingdom), Anna Cuenca (Agence France Presse, France), Anna Farrero (Televisió de Catalunya-TVC, Spain), Barbara Pfetsh (Universität Hohenheim, Germany), Bernd Radeck (Juristischen Kommission der Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland-ARD, Germany), Carla Martins (Entidade Reguladora para a Comunicação Social-ERC, Portugal), Christian Pradié (Université Paris 8, France), Christina Holtz-Bacha (Universität Erlangen-Nürnberg, Germany), Christina Uekermann (Direktorenkonferenz der Landesanstalt für Medien-DLM, Germany), Dominique Louveau (Conseil Supérieur de l'Audiovisuel-CSA, France), Emmanuel Machet (European Platform of Regulatory Authorities-EPRA, France), Eric Barendt (University College London, United

Kingdom), Gonçal Calvo (Catalunya Ràdio, Spain), Hannes Cannie (Universiteit Gent, Belgium), Isabel Ferin Cunha (Centro de Investigação Media e Jornalismo-CIMJ, Portugal), Jan van Cuilemburg (Commissariaat voor de Media-CVDM, Netherlands), Jean Marie Charon (École d'Hautes Études en Sciences Sociales-EHESS, France), Joan Botella (Universitat Autònoma de Barcelona-UAB, Spain), João Paulo Palha (Gabinete para os Meios de Comunicação Social-GMCS, Portugal), Jos Bouveroux (Vlaamse Radio en Televisieomroep-VRT, Belgium), Kaarle Nordenstreng (Tampereen Yliopisto, Finland), Maja Capello (Autorità per le Garanzie nelle Comunicazioni-AGCOM, Italy), Marcel Betzel (Commissariaat voor de Media-CVDM, Netherlands), Marina Österlund-Karinkanta (YLEisradio-YLE, Finland), Matthew Hibberd (University of Stirling, United Kingdom), Merja Saari (Viestintävirasto-FICORA, Finland), Michel Diard (Syndicat National des Journalistes-CGT, France), Nicolas Cizel (Conseil Supérieur de l'Audiovisuel-CSA, France), Nuno Pinheiro Torres (Entidade Reguladora para a Comunicação Social-ERC, Portugal), Paulo Faustino (Centro de Estudos de Comunicação e Cultura-MediaXXI, Portugal), Pekka Hyvarinen (Council of Mass Media, Finland), Per Sanden (Granskningsnämnden för Radio och TV, Sweden), Peter Humphreys (Manchester University, United Kingdom), Philippe Bouquillion (Université Paris 8, France), Piet Bakker (Universiteit van Amsterdam, Netherlands), Rafael Jorba (Consell de l'Audiovisual de Catalunya, Spain), Ric Bailey (British Broadcasting Corporation-BBC, United Kingdom), Rita Figueiras (Universidade Católica Portuguesa-UCP, Portugal), Rob Koster (Nederlandse Omroep Stichting-NOS, Netherlands), Roberto Suárez (Hans-Bredow-Institut, Germany), Rüdiger Schmitt-Beck (Universität Duisburg-Essen, Germany), Sander 't Sas (EénVandaag-AVRO Television en Nederlandse Vereniging van Journalisten-NVJ, Netherlands), Stephan Michelfelder (Westdeutscher Rundfunk-WDR, Juristischen Kommission der Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland-ARD, Germany), Sune Tjernström (Högskolan i Kalmar, Sweden), Teresa Ribeiro (Gabinete para os Meios de Comunicação Social-GMCS, Portugal), Tom Moring (Helsingin Yliopisto, Finland), Vanni Tjernström (Högskolan i Kalmar, Sweden), Wolfgang Schulz (Hans-Bredow-Institut, Germany), Wolfgang Thaeenert (Direktorenkonferenz der Landesanstalt für Medien-DLM, Germany).



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