

JOURNALISTS AS LAWMAKERS: GRASSROOTS INITIATIVE FOR MEDIA REGULATION IN BULGARIA, 1996-1998

by

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A. Summary

More than eight years after the demise of communism Bulgaria still does not have a functioning media legislation. Unhappy with the consequences of the legal vacuum, non-governmental organisations of journalists, media owners and managers have joined forces in a grassroots movement for fair media legislation and for self-regulation of journalism. This paper traces the last two years of the history of this movement and analyses three main issues: the changing role of the journalist in post-communist Bulgaria; the gradual forming of a journalistic community; and the interplay between grassroots initiative, political, economic and social factors in the democratic transformation of the Bulgarian media scene.

The analysis suggests that, after eight or nine years of struggling to define their role in society, Bulgarian journalists and media owners are beginning to unite behind their common interests. In this process, a sense of community is gradually developing, and the importance of self-regulation is being slowly being recognised. While fighting their own war, journalists might also further the cause of democracy in Bulgaria.

B. Introduction

Various journalistic roles have been discussed, e.g., informers, interpreters, watchdogs, activists, societal leaders (see for instance Gaunt, 1992). This paper focuses on a new role that has recently enriched the repertoire of Bulgarian journalists – a role tentatively named “lawmakers”. The term, as used here, does not refer to legislators in the strict sense of the word but rather people who draft and lobby for the passing of laws.

The paper is based mainly on what is generally referred to as “participant observation”. In 1996-97 the author served in Bulgaria as the Resident Advisor for the Professional Media Program, administered by the International Research and Exchanges Board (Washington, D.C.) and funded by the United States Agency for International Development. The program is aimed at fostering the development of independent, professional media in the countries of the former Soviet bloc. As a Resident Advisor, the author provided assistance to the grassroots initiative for fair media regulation in Bulgaria.

C. Post-Communist Media Law in Brief

The post-communist history of Bulgarian mass media, and especially of the attempts to regulate it, has been very fascinating and frustrating at the same time. It is a story replete with power struggles, legal paradoxes, and manifestation of Balkan manners.

It has often been said that even a bad law is better than no law at all. Both under communism and in the period between 1989 and 1996, Bulgaria had no media law. According to the new Constitution adopted in July 1991, broadcasting should be regulated by a special law. Until mid-1996, however, Parliament had not been able to pass such a law.

At the same time there was significant pressure on the government and on Parliament to allow private radio and television channels. That is why, in 1992 the Parliamentary Commission on Broadcasting took a provisional step. It created a Temporary Council on Radio Frequencies, Television Channels and Cable Networks to review applications and grant licenses to private broadcasters.

In the same year, the Council issued the first licenses to private radio stations. As of May 1995, the number of licensed radio stations in Bulgaria reached 110 with 46 of them being active (Radev, 1995). The variety of television channels was much more limited.

A Bulgarian saying goes that there is nothing more permanent than the temporary things. The Temporary Council on Radio Frequencies, Television Channels and Cable Networks was still in existence by mid-1996. Though the Constitution requires a broadcast law, not a single draft was able to reach the voting stage in three successive Parliaments.

In July of 1996, the Socialist-dominated Parliament passed a highly controversial broadcast media law (*Zakon za radioto i televiziata*). The law allowed, in effect, the political party in power to have control over the state-owned National Television and National Radio.

Soon after, the Constitutional Court ruled the major provisions of this law invalid. The resulting regulatory chaos left the state-owned broadcast media vulnerable to political pressure. Private radio and television stations also operated in uncertainty because their licenses were expiring and there was no institution in place to renew them. Very few private television stations existed and none had a nation-wide coverage. Cable operators were in the majority pirates.

D. The Political and Economic Background

In late 1995, the political pressure on journalists from the state-owned (“national”) broadcast media seemed to be at its highest after the demise of communism. Seven journalists from the National Radio, who had publicly protested against government control and what they called censorship, were fired in December (Krause, 1995). These and other journalists and intellectuals formed a grassroots organisation. It was named the Free Speech Civic Forum.

A year later, in late 1996, Bulgaria plunged into probably its deepest economic crisis ever. Hyperinflation, corruption and crime were rampant. The socialist government could not cope with the disastrous situation and at the same time refused to resign.

After mass protests, daily rallies in the course of one month (January 5 through February 5) and a general political strike, the government resigned. Pre-term parliamentary elections were held in April. The United Democratic Forces – a coalition led by the Union of Democratic Forces – won a 52% majority in Parliament.

E. Discovering a New Role

At this point, journalists who had tried to play the roles of watchdogs, adversaries to government and opinion leaders, started discovering a new role – that of **lawmakers**. Unhappy with the consequences of the existing legal vacuum, non-governmental organisations (NGOs) of journalists, media owners and managers joined forces in a grassroots movement for fair media legislation and for self-regulation of journalism.

In March 1997, the Free Speech Civic Forum organised a public discussion on the need for a new broadcast media law. Participants agreed that a new law was needed to guarantee a level playing field for state-owned and private broadcast media. The Association of Bulgarian Broadcasters also offered its support to help improve the media legal environment.

A “Media Law Task Force” was formed to draft a new broadcast media law. The group included lawyers, journalists and researchers, some of them belonging to trade associations, journalistic unions and other organisations. The work of the Task Force was funded by the Professional Media Program and by the Open Society Foundation in Sofia. Consulting with West European and U. S. experts was also provided.

In early July of 1997 the draft was ready and was informally submitted to the Parliamentary Committee on Culture and Media. The Members of Parliament from the ruling majority expressed support for the draft law and promised to introduce it to the floor soon.

Experts from the West gave a positive evaluation of the draft law. They said it met the generally accepted standards for access to the broadcast spectrum, protection of free speech, private ownership of media outlets and a “public broadcasting role” for state-owned media.

Meanwhile, the Task Force engaged in an active lobbying and public awareness campaign. Meetings and discussions were held with members of Parliament, politicians, journalists, non-governmental organisations and trade associations.

In September and October, however, two other alternative media law drafts were submitted to Parliament. The Prime Minister Ivan Kostov announced that the government was working on a third draft. Indeed, in April of 1998 the government produced two drafts – a Broadcast Media Law and a Telecommunications Law. These drafts, and especially the Broadcast Media Law, drew negative reactions from many Bulgarian NGOs and were criticised by Western experts.

The grassroots movement responded by forming a pressure group – Group for European Media Legislation. It included ten organisations: the Association of Bulgarian Broadcasters, the Bulgarian Association of Licensed Cable Operators, the National Organisation of Cable Operators, the Union of Bulgarian Journalists, the Union of Journalists in Bulgaria “Podkrepa”, the

Free Speech Civic Forum, the Center for Independent Journalism, the Journalists for European Union Association, the Access to Information Program, and the Bulgarian Helsinki Committee.

On April 4, 1998, the Group held a National Conference for European Media Legislation in Bulgaria. The participants adopted a declaration on the basic principles for a broadcast media law (Declaration, 1998). Among these principles were:

- regulations (incl. licensing and control) concerning all public and private radio and TV operators transmitting via air, cable or satellite should be set in a single legislative act;
- an independent regulatory body should be the only one authorised to license and control radio and TV operators;
- frequencies should be allocated through licenses, not concessions;
- upon expiration of the license, the regulatory body should automatically renew it provided that the operator has not violated the law or the licensing conditions.

The declaration also spelled out some additional guarantees for the independence of broadcast media that the legislation should provide:

- equal treatment of public and commercial radio and TV operators, while taking into account the specific features of the activity of cable operators;
- a simplified procedure for licensing, limiting subjectivity in issuing individual permits with the aim of establishing a registration mechanism in broadcasting;
- keeping up with the technical requirements of European legislation in order to ensure free distribution via air, cable or satellite, and to provide equal maximum transmission capacity and equal access to the frequency spectrum;
- establishing an “Electronic Media Fund” financed by dedicated budget subsidies, fees and donations for supporting public broadcasters, educational and cultural programs, and the implementation of new technologies;
- financing the Bulgarian National TV and the Bulgarian National Radio as public operators through an annual subsidy from the Electronic Media Fund, own income and sponsorship;
- financing commercial broadcasters through advertising, donations, sponsorship together with granting them the right to apply for subsidies from the Electronic Media Fund when producing non-commercial programs that serve the community’s interest or when implementing new communication technologies and services.

F. Conclusions

At the time of writing (end of August 1998), a new broadcast media law has not been passed by Parliament. The draft under discussion was the one introduced by the government.

The text of the Free Speech Civic Forum – one of the competing drafts meant to be discussed by Parliament – was withdrawn at the last moment by its sponsor, MP Sasho Stoyanov. Parliament passed a Telecommunications Law which provided for a licensing procedure dependent on a special government body.

In spite of failing to have their draft law passed, the grassroots initiative for media regulation led to other significant developments. By preparing and submitting their draft, the journalists in effect forced the government to draft their own law and helped speed up parliamentary actions on media legislation.

The grassroots initiative for media regulation has also been called the first real attempt of Bulgarian civil society to participate in the governance of the country (Stoicheva, 1997). The activities of the Media Law Task Force, of the Free Speech Civic Forum and of the Group for European Media Legislation have not only led to a large-scale public discussion on the substance of the media law. They have also raised public awareness that the performance of elected officials can and should be open to control by the voters.

These recent developments suggest that after over eight years of struggling to define their role in society, Bulgarian journalists, media owners and managers are beginning to unite behind their common interests. In this process, a sense of community is gradually developing. The importance of self-regulation is also slowly being recognised as an alternative to government regulations. In 1997 a Professional Code of Radio and TV Journalists was drafted by the Center for Independent Journalism in Sofia and was adopted by the journalistic community.

The grassroots legislative activity has drawn criticism as well. Some observers have insisted that law making is a job for parliamentarians and legal experts rather than for journalists. Others have claimed that there were hidden agendas behind the grassroots movement. Whichever school of thought we choose to believe, there is hope that, by fighting their own war, journalists might also do a service to democracy in Bulgaria – both by pushing for fair media legislation, and by stimulating the development of civil society.

The question remains open for discussion whether post-communist Bulgarian journalists have been more successful in their "traditional" roles as disseminators of information, watchdogs, etc., or in the new, non-specific role of "lawmakers".

References

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