

**Legal issues related to Public Service Broadcasting
OSCE Central Asia Media Conference 2021**

In the presentation, the three themes were:

- Is law important for Public Service Broadcasting (PSB)?
- Can law ensure that the good objectives and core values of PSB are met?
- What if anything has changed with new media and new ways to use media?

Is law important for Public Service Broadcasting (PSB)?

The first point to make is to stress how important law is for PSB. Such media in several ways is an exception from rules that apply to other types of media; broadcasting in particular. In a rule of law society, it is essential that any exceptions to rules are set out clearly in law so that there is legal certainty. PSB is not covered by general regulatory rules and often the regulator does not have competence but special organs exist. Sanctions are different for PSB: the ultimate sanction of withdrawal of the licence is normally not available for PSB, as such broadcasters operate under special laws and are obliged to broadcast and it would be very strange for another public organ to hinder such work by banning their broadcasts. The special conditions that exist for PSB, including the different system of oversight, needs to be set out in law.

The exact legal style varies from country to country. In some cases, there will not be a law on PSB but some form of secondary legal act (regulation, decision, etc.) based on law. This is less important as what is essential is that there are clear and binding rules. Laws must always be made in the style suitable in the country, which is why inspiration can be drawn from other countries as well as from model laws of international organisations, but such acts cannot be copied exactly.

Can law ensure that the good objectives and core values of PSB are met?

On its own, law is not enough. There are unfortunately many examples around the world of good laws that are never implemented. There needs to be political will and a system of rule of law, wherein laws are generally properly implemented and applied. However, as mentioned above, the law is nevertheless very important. It should set out the values and core principles of PSB so that this is clear, which also helps society in understanding what such broadcasting is for and why it is useful. Having values and principles expressed in legal form in a law is important.

What is perhaps the main way in which law can support the values of PSB is through creation of the different organs that govern and supervise the broadcasters. These organs should ensure impartiality, plurality, objectivity, and quality. As the regulatory and supervisory system for PSB is different than for other broadcasters, supervisory organs are also needed. The way the board, management, supervisory organs, and any other organs are selected and appointed is very important for the overall quality and trustworthiness of the PSB. It is important that the organs not only are objective and non-political but that they are also perceived as such – to not just represent a specific group of society. There are many different models of selection and appointment around the world that can be used for inspiration. If parliaments are involved, there should be rules that ensure a maximum support across different parties, with either a “supermajority” required or specific rules to ensure support also from opposition politicians. It is also possible to avoid totally that a political organ such as parliament is involved in the selection, but instead leave this to an academy of science, the supreme court or something else. As for proposal of members of the different organs, this can be free for anyone or

follow some procedure to ensure involvement of civil society. When designing the different systems (and generally when working on a PSB law) an inclusive legislative process, also involving civil society is important.

What if anything has changed with new media and new ways to use media?

Media is consumed in very different ways today than only some decades ago. Many (especially young) people never watch traditional television and many people use internet in some form as the main source of news. As concerns the way media content reaches people, PSB has to be aware of this change and adapt its operations. However, as far as the role of PSB to provide quality and objective news and other information, this role remains important. People may access content on websites or by streaming programmes or individual news items rather than watching news or other programmes at a specific time on traditional television, but they are still interested in the content. This is seen especially in times of crisis, like the current pandemic, when people are in extra big need of clear and objective information.

The delivery methods and also probably the financing methods of PSB will have to change or keep changing over the next years, but the core values and principles for content do not – these good values remain important.