

The change of the media system as the goal of the media policy of the *Law and Justice* (PiS) government from 2015

Ewa Stasiak-Jazukiewicz, *University of Warsaw (Warsaw, Poland)*

E-mail: e.stasiak@uw.edu.pl

ORCID ID: 0000-0002-0529-2239

Abstract

This article is an attempt to demonstrate that the media policy of the *Law and Justice* (PiS) government after 2015 has had a systemic quality. It is aimed at altering the principles of how the media in Poland is organised and how it is functioning, which will facilitate the media's instrumental exploitation in the government's information policy. These findings emerge from a structured comparison based on the management theory of a classifier of goals with the concepts of public interest as a guideline of media policy accepted in various forms of democracy and the corresponding media doctrines.

Keywords: PiS government's media policy, public interest, Poland, types of media policy, media order

Zmiana systemu medialnego jako cel polityki medialnej rządów *Prawa i Sprawiedliwości* (PiS) po 2015 roku

Streszczenie

Artykuł stanowi próbę wykazania, że polityka medialna rządów *Prawa i Sprawiedliwości* (PiS) po 2015 roku ma charakter systemowy. Jej celem jest zmiana zasad organizacji i funkcjonowania mediów w Polsce, która umożliwi ich instrumentalne wykorzystywanie w polityce informacyjnej rządu. Wnioski te wynikają z porównania skonstruowanego w oparciu o teorię zarządzania klasyfikatora celów z koncepcjami interesu publicznego, jako wytycznymi polityki medialnej przyjętymi w różnych rodzajach demokracji i odpowiadających im różnym doktrynom medialnym.

Słowa kluczowe: polityka medialna rządów PiS, interes publiczny, Polska, rodzaje polityki medialnej, ład medialny

The concern over the social effects of political communication and, more broadly, the form of the public sphere intensified the interest, which political scientists began in the 1950s to have in media policy. There are differences in how emphasis is placed on the

components of media policy, but the literature on the subject defines it as political decisions and actions from the government interfering in the content of media messages and the principles of the organising and functioning of the media system¹ along the lines of the goals arising from the accepted values system, the existing socio-economic determinants and the social needs and interests present (Stasiak-Jazukiewicz 2005: p. 7; Stasiak-Jazukiewicz, Jas-Koziarkiewicz 2011: p. 23; Puppis 2007: p. 34; Freedman 2008: p. 14).

The aims of media policy are often of political, social, cultural or economic nature. Each of them should serve the so-called "public interest" (Raboy et al. 2003). This concept is interpreted differently in different kinds of democracy and the corresponding different media doctrines. Utilitarians, exponents of a liberal media doctrine (the so-called "free press doctrine") revere the conviction that a free media market is the best guarantor of the public interest. Political unitarists and adherents of the doctrine of the social responsibility of the media believe that it can be secured by accepting the dominant axiology. They are in favour of strong state intervention in the media system, based on the idea of the media as a social institution and not private entities. This idea corresponds with the Catholic media doctrine, which assumes the main goal of the activity of Catholic media outlets to be the propagation of the principles of the moral order and the communication of true information (which strengthens Catholics in their faith and is based on proclaiming the message of salvation). This obliges the state government to protect the true and correct freedom of information being used for the common good (Goban-Klas 2021: p. 170). However, in a deliberative democracy and the corresponding doctrine of democratic participation or the theory of mutual interest, solutions are assumed, which benefit all citizens, superseding their individual and group preferences, where freedom of speech and media pluralism are intended to serve public debate, leading to an agreed position. It demands the state nurture the development of politically engaged community and alternative media outlets. These latter, according to Olga Guedes Bailey, Bart Cammaerts and Nico Carpentier, break the absolutist interpretation of the principle of media neutrality and impartiality, and offer diverse social groups and communities the opportunity of broad participation in public debate (Bailey et al. 2012).

The government has a wide range of instruments to implement its media policy, beginning with the adoption of the legal norms regulating the media's functioning. It may be achieved by the granting of licences, directly or indirectly subsidising media fulfilling important social functions (such as the informational function) or by developing schemes to support organisations which have found themselves in temporary financial difficulties (for example, due to limitations in their functioning caused by the pandemic). Interference in the content of media messages is dictated by the need to protect individuals, the whole society or its individual groups. This category includes legal restrictions protecting the personal rights of individuals and common legal goods. The expectations of journalism and media organisations fulfilling defined social functions are formulated. One example of this is the legislative definition of the public service or the imposition of the obligation of the Public

¹ The author understands the term "media system" as formal and informal social groups participating in the process of creating and disseminating information, their mutual relationships and the social norms, which regulate those actions (Stasiak-Jazukiewicz 1992: p. 6).

Broadcasting Service (PBS) to fulfil a specific function (for example the TVP S.A. Charter of Duty). The currently implemented concession policy, the rules for registering publishing activity and subsidies for media organisations fulfilling socially valuable tasks are also the expression of the expectations. Other methods of influencing the content of media messages are: tenders for topic-based information campaigns, placing paid advertisements or the legal requirement to present government activity, proportional obligations to broadcast programmes created in the national language or European languages (the so-called "European quota", that is the obligations concerning the promotion of European works).

The influence on the principles of the organisation and functioning of media outlets is visible in how their ownership rights are regulated, with preference granted to those forms which are most likely to ensure media plurality, such as community ownership. This involves the use of instruments such as the regulation of the capital structures of media companies with the aim of avoiding the process of media ownership becoming concentrated. It also involves defining the limit to which foreign capital can access the market. The media market is responsive to the financial support, which helps it outlast weaker companies in conditions of competition. Policy in this area also concerns the principles of organisation and the range of responsibilities of regulators. One important area of activity is digitisation, spreading access to information technology and working to eliminate the digital exclusion.

Karol Jakubowicz indicated the following types of media policy: systemic, sectoral and operational. The systemic type leads to an overhaul of the media system. The sectoral concerns measures undertaken towards individual types of media: the printed press, radio stations, television stations, the internet and social media sites. The operational type solves specific problems which occur (Jakubowicz 2008: p. 21).

This article is an attempt at qualifying the media policy of the *Law and Justice* (PiS) government since 2015 to one of the identified concepts and types. Media policy as one of the distinctive features of media systems (Hallin, Mancini 2004; Dobek-Ostrowska 2015; Herrero et al. 2017). These considerations may be facilitated by attempts to classify the Polish media system, a topic completely omitted here due to the assumed volume of the article.

Methodological assumptions

Management theory (Bielski 2002: p. 49–51) was used to construct a classifier of the goals of the PiS government's media policy. Three general goals and three partial goals were selected (Stabryła, Trzcieniecki 1986: p. 302–303). The constructed "tree of goals" is bolstered by the instruments used in their implementation. Comparing these to the theoretical assumptions presented in the introduction led to an attempt to define the nature of the media policy of the PiS government from 2015.

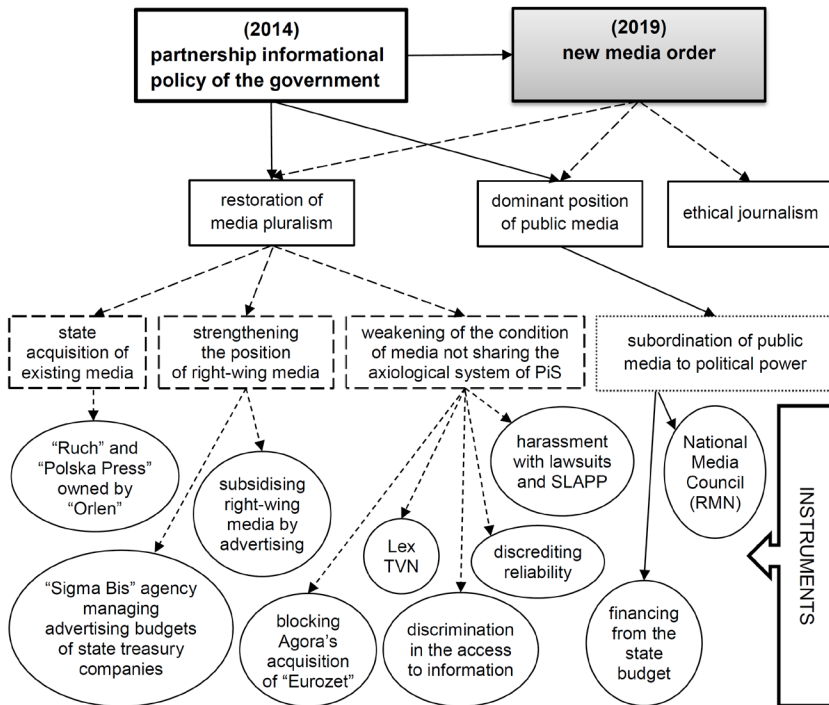
The identification of goals was performed on the basis of the analysis of the electoral agenda of PiS from 2014 and 2019 and of statements from leading politicians of the party during meetings with voters and for the media. The following were used to define the instruments used in the PiS government's media policy: an analysis of normative legislative acts passed or currently being processed which regulate media activity; an in-

stitutional analysis of the inspectorates of online media; an analysis of data and a critical analysis of reports documenting the state of the Polish media; an observation of political decisions and the reactions of media outlets to them as well as of public opinion.

Research results

The PiS government from 2015 led a media policy in all areas. The 2014 election agenda announced increased activity (see: Program 2014). Even then the main goal of this policy appeared: to change the "nature of the system of the government's social communication with society, from the propaganda to the communication based on partnership" (Program 2014: p. 145). Numerous analyses (including: Uniwersytet Papieski... 2017; Kłosińska et al. 2018) of the content of the news and current affairs programmes of state media taken over by the government cast doubt on the idea that the public interest is being served. They stress the politicisation and practice of advocacy journalism (Janowitz 1975; Fisher 2016). The planned partnership-based nature of the system of the government's social communication with society would perhaps be entrusted to so-called "identity media" with an ideological bias and consolidating a group by forming a community of professed values. The "Gazeta Polska" weekly is an example of this.

Figure 1: Tree of the goals of PiS government's media policy



Source: author's own elaboration.

Further clarification of the media policy goals of the PiS government was included in the 2019 election agenda (see: Program 2019). The desire to construct a "new media order" was announced as essential for the implementation of the main objective from 2014 (i.e. a partnership-based information policy of the government) and it was hailed as equally important in terms of significance and axiological charge (Program 2019: p. 227). The media order is partially synonymous with the concept of the media system. Only partially, because this term is used in connection with an ethical dimension. According to Adam Lepa, "the media order is a permanent equilibrium in the media world, making it possible for citizens to access both widespread and true information, and is also the construction of communication links. "Equilibrium" here means the optimal status in individual media sectors, such as their structure, political principles, media legislation, the share of foreign capital, state security in the area of news, and the protection of citizens from the negative influence of the media. [...] Mistakes and negligence in this field harm media consumers – in the area of the intellect – because they bring gaps in knowledge and a lack of orientation in matters of most importance in life, and in the area of moral standpoints, because they are prone to pressure from ethical relativism and follow the slogans of dangerous permissiveness" (Lepa 2009: p. 16).

The implementation of three specific goals are intended to aid the construction of the new media order. Above all, the "creation of the conditions for the functioning of pluralist, democratic and inclusive media" have been announced (Program 2019: p. 227). According to the scholar literature, pluralist media "reflect varied opinions, points of view and also cultural representations in society and simultaneously offer various forms of interaction and use. It not only implies the existence of many organisations and owners of media organisations, but also leads to the assumption of varied types of ownership (e.g. private, public, community) and means of financing (from advertising, sales, grants etc.)" (Klimkiewicz, Wilk 2018: p. 716). The instruments used by PiS to achieve this goal means in particular the state acquisition of media organisations. The *Orlen*, a state-treasury company, bought *Ruch*, one of the largest newsagents and bought out the publishing group *Polska Press* from its German owners, with 20 regional dailies, over a hundred local weeklies and a developed range of internet media outlets reaching 17.5 million recipients. The legitimacy of the concerns about these outlets being dependent on the authorities were confirmed by the dismissals of journalists and editors-in-chief, which were carried out during the first months following acquisition.

Further proof of the change in editorial policy is the refusal to commission paid publication in the *Dziennik Bałtycki*, which had discussed the subject of the Constitutional Tribunal ruling on the primacy of national law over EU regulations (see more: Wirtualne-media.pl WWW).

Another instrument applied here is the strengthening of the position of right-wing media outlets, for example by way of state subsidies. State advertisements are granted without transparent procedures, with no connection to the position of the media outlet on the consumer market and asymmetrically to media supporting the government. According to the report by Tadeusz Kowalski, from 2015–2019 state-treasury companies

spent over 4 billion PLN on advertising. In 2019 the greatest beneficiaries of these funds were the television broadcasters: *TVP1*, *Polsat* and *TVP2*, radio broadcasters: *RMF FM* and *PR3*, and the right-wing newspapers and magazines: the daily *Gazeta Polska Codziennie*, and the weeklies *Sieci*, *Gazeta Polska*, *Do Rzeczy* and *Wprost* (Kowalski 2020: p. 3). Difficulties were encountered in implementing the plans to develop a broadband network, in which hopes were vested, for example, of more widespread right-wing websites and increased interest in the Albicla.com social media network created in January 2021 by Tomasz Sakiewicz, the editor-in-chief of *Gazeta Polska*, as an alternative to the American Facebook. In April 2020 the Broadband Fund (pl. *Fundusz Szerokopasmowy*) was created with the aim of supporting the development of modern electronic communication services and the digital competences of society (Ustawa 2020a: art. 83, 84). A budget of approximately 130 million PLN annually was earmarked for this. However, the fund will be launched on condition that the National Recovery Plan is passed by the European Commission.

Destabilising measures were undertaken against media critical of the government. These organisations were not included in the catalogues drawn up by the Ministry of Justice for those which institutions subordinate to it subscribe to (Dziennik Gazeta Prawna 2016). *Agora's* acquisition of the *Eurozet* broadcaster was blocked. The process of making the decision to extend TVN24's broadcast licence lasted 19 months. A further amendment was processed to the media act, which limited the share of foreign capital from outside the European Economic Area to a maximum of 49% of shares in electronic media (the so-called "lex TVN"). Immediately after Donald Trump's accounts were blocked on social media, the PiS government drafted a bill on the defence of the freedom of speech on online social media services, thereby establishing the Council for the Freedom of Expression (pl. *Rada Wolności Wypowiedzi*) – the public body competent to order the owners of networks to reinstate deleted content and blocked accounts with non-compliance facing a fine from 50,000 to 50 million PLN. This was intended to be a political body, composed of five members selected by the Sejm (Ministerstwo Sprawiedliwości 2021).

Editorial teams and journalists who do not share PiS's values system had lawsuits concerning the violation of personal rights, including defamation. In years 2015–2021 there were 187 of these cases. Poland's Journalists Society (pl. *Towarzystwo Dziennikarskie*) identified 66 of them as strategic lawsuits (Strategic Lawsuits Against Public Participation, SLAPP) intended to intimidate participants in the media debate (Ivanova 2021). The criminalisation of defamation was maintained. Despite the amendment of the Criminal Code in 2020 and 2021, art. 212 remained unchanged. It lays out more severe punishment for journalists guilty of libel, up to one year in prison (see: Ustawa 1997).

A second particular goal is to return the public media to its dominant position. The national government has subordinated the public media to itself. This was made possible, firstly, due to the National Broadcasting Council (pl. *Krajowa Rada Radiofonii i Telewizji*, KRRiT) being stripped of its competences to appoint the boards of Public Broadcasting Service (PBS) by way of a tender and instead entrusted these responsibilities to the National Media Council (pl. *Rada Mediów Narodowych*, RMN) created in 2016 and included the

active politicians. When choosing candidates to form a board, RMN applies a procedure, which is solely based on the demonstration of imprecisely defined competences in radio and television journalism. The boards of all PBS have been replaced by people associated with the group of the parties forming the governing United Right coalition. Secondly, subordinating media to the government facilitated the financing of them with public funds; since 2020 the amendment of the act on radio and television broadcasting (Ustawa 2020b) has enabled permanent state subsidisation. One example of this is state support is *Telewizja Polska* (TVP S.A.) which from 2016–2021 received nearly 6 billion PLN (see: Mikołajewska 2021). The decisions to increase the number of channels broadcast by TVP S.A. bore an impact on the media offer and thus potentially on the consumption of the media. Since 2016 nine new ones have been launched, some of which were in response to needs which had arisen due to the pandemic: *TVP eSzkoła Domowe Przedszkole* (the online education channel, 2020) and *Msza Święta na Jasnej Górze* (the online religious channel, 2020). Others are intended to create a positive image for Poland and to present the Polish point of view on global events: *Poland In* (the online English-language channel for foreign viewers, 2018) and *TVP Wilno* (the channel aimed at ethnic Poles in Lithuania, 2019). Others still were launched with the aim of increasing the number of channels reaching viewers of so-called "mission-based channels": *TVP Kultura 2* (the online culture channel, 2020), *TVP Dokument* (broadcasting documentaries, 2020) and *TVP Historia 2* (the online history channel, 2021). The remaining two are an attempt to gain or retain viewers: *TVP 4K* (temporary, broadcasting games from the football World Cup, 2018) and *TVP Kobieta* (lifestyle channel, 2021).

The third particular goal – ethical journalism – is awaiting implementation. A "separate bill regulating the status of the profession, [...] the creation of public body, which would ensure the ethical and professional standards, self-regulation and respond to the education process of aspiring journalists" was announced (Program 2019: p. 196). In 2018 several beneficial changes were made in the act on the press law from 1984, removing regulations on the non-existent Press Council, removing inconveniences linked with the obligation of authorising interviews (see: Ustawa 1984).

Conclusion

The activity of the PiS government after 2015 to create the conditions of functioning of the Polish media consisted of the politicisation of regulatory bodies, the subordination of Public Broadcasting Service media, support for the development of politically convenient media, upholding public ownership in the media and using the media in political battles. This is a systemic media policy aimed at altering the Polish media system, which is closest to a mixture of the political unitary concept and the understanding of the public interest by way of Catholic media doctrine.

Ewa Stasiak-Jazukiewicz – professor of social sciences, political scientist, media researcher. Her publications include works on foreign media systems and media policy. She is employed at the

Department of the Policies of the European Union at the Faculty of Political Science and International Studies of the University of Warsaw. Research interests: media systems and they functioning, the role of the media in the process of social transformation (in particular the process of European integration), the role of the media in political communication, media policy and information policy.

Ewa Stasiak-Jazukiewicz – profesor nauk społecznych, politolog, medioznawca, m.in. autorka prac o zagranicznych systemach medialnych i polityce medialnej. Pracownik Katedry Polityk Unii Europejskiej Wydziału Nauk Politycznych i Studiów Międzynarodowych Uniwersytetu Warszawskiego. W pracy naukowo-badawczej zajmuje się organizacją i funkcjonowaniem systemów medialnych, rolą mediów w procesie przemian społecznych (zwłaszcza w procesie integracji europejskiej), rolą mediów w komunikowaniu politycznym, polityką medialną i polityką informacyjną.

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