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Ownership and Political Influence in the Post-socialist Mediascape: the Case of Slovenia

Abstract. Since the proclamation of Slovenian independence in 1991, new laws governing the media have been passed in 1994, 2001, and 2005 – in each case giving rise to controversy. An effort undertaken by center-left parties in 2010 to pass yet another law, aimed this time at expanding the autonomy of Radio-Television Slovenia and narrowing the possibility for government interference, was defeated in a public referendum in which less than 15 % of those eligible to vote took part. There has also been controversy in Slovenia about ownership of the media. These controversies about the public media in Slovenia – both regarding government interference and media monopolies – are symptomatic of the transition pangs experienced throughout post-communist central and southeastern Europe, with similar controversies having erupted in most of the countries of the region.

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In October 2005, the National Assembly of the Republic of Slovenia passed a controversial law on the media following its razor thin approval by a public referendum.¹ Under this legislation, which replaced the previous media law of 2001, the Assembly expanded the size of *Radiotelevizija Slovenija's* (Radio-

¹ The authors are grateful to the Faculty of Social Sciences and Technology Management and to the Department of Sociology and Political Science of the Norwegian University of Science & Technology (NTNU), as well as to the Centre of Political Science Research, the Faculty of Social Sciences of the University of Ljubljana, and the Slovenian Research Agency, for funding a three-year faculty exchange between NTNU and the University of Ljubljana. The exchange permitted Professor Ramet to conduct research interviews in Slovenia on 17-24 June 2008 and again on 13-16 April 2010. We are also grateful to Matija Uršič for translating some materials from Slovenian for the benefit of Professor Ramet and to an EEA Grant for providing funding in support of Uršič. The EEA Grant was made available through the Norwegian Financial Mechanism. The authors also thank the two anonymous reviewers for their most helpful comments on an earlier draft of this article.

Television Slovenia) program council from 25 members, among whom the Assembly had named five, to 29, among whom the Assembly would now appoint 21. Five members are proposed by the political parties and 16 by civil society organizations, such as NGOs and universities; two members are named by the Italian and Hungarian national minorities respectively; one by the Slovenian Academy of Sciences and Arts; two by registered religious groups; and three members are elected from among the employees at Radio-Television Slovenia. The *Društvo Novinarjev Slovenije* (Journalists' Association of Slovenia) characterized the law as a blow against media freedom in Slovenia, through which the political parties controlling the government would increase their power over the media because they now appoint the majority of the members of the council.² Yet Branko Grims, a member of the center-right Slovenian Democratic Party (*Slovenska demokratska stranka*, SDS) and the chief author of the new law, claimed that, under the law of 2001, the program council had become "highly politicized" and that the new law would actually work to *reduce* the influence of political parties on the media.³ The law had been controversial from the time it was published in draft form in April of that year, and journalists continued to protest both before and after passage of the law.⁴

In Slovenia, the debate about the media and especially about the act governing Radio-Television Slovenia continued and intensified after the 2008 elections, which brought Borut Pahor, leader of the center-left Social Democratic Party (*Socialni demokrati*, SD) into the prime minister's office. The parliament discussed a new version of the law in 2010. Under the draft law, the council was to have 17 members, with now five of them to be appointed by political parties, while Radio-Television Slovenia would have become a public institution, and thus no longer owned by the state. However, the new law was rejected in a public referendum in December 2010, in which only 14.78 % of the eligible voters participated; 72.33 % of those taking part voted against the bill.⁵

² Journalisten: „Medienfreiheit in Slowenien angeschlagen“, *Der Standard*, 12 May 2006, available at <<http://derstandard.at/druck/?id=2432962>>. All internet sources were accessed on 8 February 2012.

³ Miha ŠTAMCAR, Reakcionarni zakon, *Mladina*, 17 April 2005, available at <http://www.mladina.si/tehdnik/200515/clanek/slo--mediji-miha_stamcar_vanja_pirc/>. It seems that this line of argument overlooks the fact that, according to the new legislation, 16 members of the council are selected by the Assembly from among candidates proposed by civil society organizations. This implies that whichever political party is in power can choose candidates who are ideologically close to their political program.

⁴ Cf. the official statements by the Journalists' Association of Slovenia, *Objava izjav in sklepov DNS o zakonu o RTV*, 23 September 2005, available at <<http://www.novinar.com/novice/novica.php?id=365>>.

⁵ Državna volilna komisija, *Poročilo o izidu glasovanja na referendumu RTV 2010*, available at <<http://www.dvk.gov.si/RTV2010/index.html>>.

Freedom of press and of the broadcasting media is, as is well known, a basic prerequisite for the functioning of a stable liberal democracy. The issue of media freedom is, in fact, one of three central challenges which Slovenia's still-young liberal democracy has faced, alongside the assurance of the equality of its citizens, including Roma, Muslims, gays and lesbians,⁶ as well as former Yugoslav citizens who were "erased" from the citizenship registries,⁷ and the fight against corruption.⁸

In the following article, we first discuss alternative models of media regulation and media systems; we then set the transformation of the Slovenian media scene in the context of the region-wide post-socialist transformation before focusing on the particulars of the Slovenian media scene. We will advance the arguments that capitalism in the media market can work to undermine liberal democracy; that a form of monopoly capitalism has been introduced in the Slovenian media market; and that this monopoly undermines press freedom, and thereby also democracy, through various devices detailed below. Our central argument is twofold: First, that media ownership may be used as an instrument for political influence and that, in the case of Slovenia, it has been put to such use; and second, that such political exploitation of the media results in bias and distortions in the content of the media. The article is based, among other things, on about two dozen interviews conducted by Sabrina Ramet with media professionals and academic researchers specializing in the media. These interviews were conducted in Ljubljana and Maribor in June 2008 and April 2010.

Framework

As Peter Gross points out, it remains an unresolved question whether democracy leads to a free press or vice versa, with a free press to be interpreted as a prerequisite for a democratic society to emerge, rather than its consequence. Gross believes that there is also a third, often overlooked element that should be taken into consideration, viz. that of cultural elements which are underlying the market and the political system and consequently influence the media and

⁶ Cf. Roman KUHAR, Homosexuality as a Litmus Test of Democracy and Postmodern Value Orientations, in: Sabrina P. RAMET / Danica FINK-HAFNER (eds.), *Democratic Transition in Slovenia: Value Transformation, Education, and Media*. College Station/TX 2006, 233-258; IDEM, *Resisting Change: Same-sex Partnership Policy Debates in Croatia and Slovenia*, *Südosteuropa. Zeitschrift für Politik und Gesellschaft* 59 (2011), n. 1, 25-49.

⁷ Cf. Vlasta JALUŠIČ / Jasminka DEDIĆ, (The) Erasure – Mass Human Rights Violation and Denial of Responsibility: The Case of Independent Slovenia, *Human Rights Review* 9 (2008), n. 1, 93-108.

⁸ Cf. Sabrina P. RAMET, *Democratization in Slovenia – the Third Stage*, in: EADEM, *Serbia, Croatia and Slovenia at Peace and at War: Selected Writings, 1983-2007*. Vienna, Berlin 2008, 267-288, 275f.

journalism.⁹ We agree with Peter Gross on the importance of civic values for building and maintaining a liberal democracy, as well as with his assessment that the desire of local politicians to control the press may be attributed, in part, to a continuance of thought patterns inherited from the socialist era.¹⁰ We also agree with those researchers who have underlined the role that education can play in instilling civic values conducive to liberal democracy.¹¹ Moreover, we are in full agreement with Sandra Bašić-Hrvatín, Lenart Kučič, Brankica Petković, and Cindy Price, in stressing the central importance of media ownership.¹² Media monopolization does not necessarily lead to the homogenization of media content or even to media bias, as research by Pritchard, Terry, and Brewer has shown,¹³ but media ownership translates into power which can be and has been used to block certain stories from ever becoming published and to advocate material which advances the interests of the media owner or his associates. Yet media ownership is, in turn, regulated by law, and laws may be

⁹ Peter GROSS, *Forward to the Past: The Intractable Problems of Romania's Media System*, *The International Journal of Press/Politics* 13 (2008), n. 2, 141-152.

¹⁰ IDEM, *Entangled Evolutions: Media and Democratization in Eastern Europe*. Baltimore/MD, Washington/DC 2002, 58f.

¹¹ See, for example, Oto LUTHAR / Keith A. McLEOD / Mitja ZAGAR (eds.), *Liberal Democracy, Citizenship and Education*. Niagara Falls/NY 2001; Wolfgang HÖPKEN, *Between Civic Identity and Nationalism: History Textbooks in East-Central and Southeastern Europe*, in: Sabrina P. RAMET / Davorka MATIĆ (eds.), *Democratic Transition in Croatia: Value Transformation, Education & Media*. College Station/TX 2007, 163-192; Magdalena NAJBAR-AGIČIĆ, *The Use and Misuse of History Teaching in 1990s Croatia*, in: RAMET / MATIĆ (eds.), *Democratic Transition in Croatia*, 193-223; Dubravka STOJANOVIĆ, *Value Changes in the Interpretations of History in Serbia*, in: Ola LISTHAUG / Sabrina P. RAMET / Dragana DULIĆ (eds.), *Civic and Uncivic Values: Serbia in the Post-Milošević Era*. Budapest, New York 2011, 221-240; and Pilvi TORSTI, *Rival Histories & Textbook Reform in Bosnian Textbooks, 1992-2009*, in: Ola LISTHAUG / Sabrina P. RAMET (eds.), *Bosnia-Herzegovina since Dayton: Civic and Uncivic Values*. Ravenna: Longo Editore, accepted for publication. See also Sabrina P. RAMET, *Civic Virtues, Liberal Values, and the Civic Culture*, in Sabrina P. RAMET / Ola LISTHAUG / Albert SIMKUS (eds.), *Civic and Uncivic Values in Macedonia: Value Transformation, Education, and Media* (book in preparation).

¹² Sandra B. HRVATIN / Lenart J. KUČIĆ / Brankica PETKOVIĆ, *Media Ownership: Impact on Media Independence and Pluralism in Slovenia and other Post-Socialist Countries* [hereafter: *Media Ownership in Slovenia*]. Ljubljana 2004; and Cindy J. PRICE, *Interfering Owners or Meddling Advertisers: How Network Television News Correspondents Feel About Ownership and Advertiser Influence on News Stories*, *Journal of Media Economics* 16 (2003), n. 3, 175-187.

¹³ David PRITCHARD / Christopher TERRY / Paul R. BREWER, *One Owner, One Voice? Testing a Central Premise of Newspaper-Broadcast Cross-Ownership Policy*, *Communication Law and Policy* 13 (2008), n. 1, 1-27. But the concentration of media outlets under unified ownership may threaten diversity of programming and content, as Zrinjka Peruško suggests. See Zrinjka PERUŠKO, *Media and Civic Values*, in: RAMET / MATIĆ (eds.), *Democratic Transition in Croatia* (above fn. 11), 224-244, 239.

changed, whether they affect ownership directly or “merely” change regulatory mechanisms – as the case of Hungary has most recently demonstrated.¹⁴

Following Natalya Ryabinska, we distinguish between *internal media owners*, whose investments are limited to the media sector, and *external media owners*, whose primary investments lie elsewhere and who therefore value their control of one or more media outlets primarily in terms of promoting their other business interests.¹⁵ It is possible that, as Ryabinska suggests, external ownership of media is more likely to result in the corruption of journalistic practices than is internal ownership. But both internal and external owners may forge alliances with political officeholders, resulting in the intrusion of political interests into the media.¹⁶ The benefit for the political partner in such an arrangement lies in his influence on the media controlled by the owner; for our present purpose, *influence* over certain media may be defined as the ability to promote or veto certain appointments, policies, and news stories, thereby giving the person enjoying such influence a say in the coverage and content of the media outlet.¹⁷

In 2004, Daniel C. Hallin and Paolo Mancini published their influential volume *Comparing Media Systems*. Undertaking to evaluate the media in 18 countries in North America as well as Northern, Western, and Southern Europe,¹⁸ they outlined four factors, according to which they believed media systems in these regions could be analyzed. These factors are:

“(1) the development of media markets, with particular emphasis on the strong or weak development of a mass circulation press; (2) political parallelism; that is, the degree and nature of the links between the media and political parties or, more broadly, the extent to which the media system reflects the major political divisions

¹⁴ Hungary: Media Law Endangers Press Freedom, *Human Rights Watch*, 7 January 2011, available at <<http://www.hrw.org/news/2011/01/07/hungary-media-law-endangers-press-freedom>>.

¹⁵ Natalya RYABINSKA, The Media Market and Media Ownership in Post-Communist Ukraine: Impact on Media Independence and Pluralism, *Problems of Post-Communism* 58 (2011), n. 6, 3-20, 8.

¹⁶ On this point, see Monika METYKOVÁ / Lenka WASCHKOVÁ CÍSAŘOVÁ, Changing Journalistic Practices in Eastern Europe: The Cases of the Czech Republic, Hungary and Slovakia, *Journalism* 10 (2009), n. 5, 719-736, 721, available at <<http://nrl.northumbria.ac.uk/1943/1/Metykova%20M%2C%20Cisarova%20LW%20%20Changing%20journalistic%20practices%20in%20Eastern%20Europe%20-%20article.pdf>>.

¹⁷ Manuel Castells has offered an alternative definition, which was not framed with the media in mind. According to him, “[i]nfluence is the process by which a social actor frames others’ choices in the sense of its [own] interests, while not being able to impose these interests by sheer force”. Cf. Manuel CASTELLS, A Rejoinder: On Power, Identities and Culture in the Network Society, *New Political Economy* 3 (1998), n. 3, 473-483, 474.

¹⁸ The evaluated countries are: the USA, Canada, the United Kingdom, Germany, France, Italy, Spain, Portugal, Ireland, Austria, Switzerland, Norway, Sweden, Denmark, Finland, The Netherlands, Belgium, and Greece.

in society; (3) the development of journalistic professionalism; and (4) the degree and nature of state intervention in the media system.”¹⁹

Their pioneering work has rightly had a huge influence on scholars writing about media systems in North America and Western Europe.

The post-socialist world of Eastern Europe operates according to different rules, however. To begin with, there is the legacy of communism, which habituated people to engage in largely formal participation, unless they worked in the political-cultural underground; the result, referring to the Romanian case, is that “[t]he public is clearly not part of public opinion or its formation”.²⁰ Indeed, throughout the post-socialist region, “many journalists still share the communist-era conviction that the population needs to be led, schooled, and mobilized”²¹ – in other words, that it is the media that should create and define what public opinion is and should be.

A second difference is that some of the media markets in the post-socialist region, such as Albania, Bulgaria, Macedonia, and Romania, are weak. Furthermore, lack of professionalism and low journalistic standards plague at least some media outlets in most, if not all, of the countries in the region. The best records for journalistic professionalism have been achieved in the Czech Republic and in Poland.²²

Third, even in those instances where local legislation mirrors legislation in Western Europe, such legislation is sometimes interpreted differently from the way it is interpreted in countries which did not experience communism.²³ And finally, while Hallin and Mancini noted that media systems in the countries they studied tend to reflect the political divisions in the given society, when it comes to post-socialist countries, including Slovenia, the actual penetration of the media by governing parties has been far from unusual. In this article, we shall trace the political battles waged in Slovenia over media legislation and show how the twin issues of ownership and regulatory legislation have combined to open the door to political influence over the Slovenian media.

¹⁹ Daniel C. HALLIN / Paolo MANCINI, *Comparing Media Systems: Three Models of Media and Politics*. Cambridge 2004, 21.

²⁰ GROSS, *Forward to the Past* (above fn. 9), 145.

²¹ RYABINSKA, *The Media Market* (above fn. 15), 4.

²² *Ibid.*; Ágnes GULYÁS, *Print Media in Post-Communist East Central Europe*, *European Journal of Communication* 18 (2003), n. 1, 81-106. For a criticism of the recent developments in Hungary, cf. South and East Europe Media Organisation (SEEMO), *Hungary Press Freedom*, available at <<http://hungarypressfreedom.org/>>.

²³ Peter GROSS, *Between Reality and Dream: Eastern European Media Transition, Transformation, Consolidation, and Integration*, *East European Politics and Societies* 18 (2004), n. 1, 110-131, 119.

Whose Media?

Peter Gross, in his seminal study of the post-communist media, assessed that, as of 1995, the independence of the media in the post-communist countries of Eastern Europe was still “fragile and unconsolidated”.²⁴ The independence of the media is, in turn, interconnected with the question of ownership, but also with the self-assigned and socially-assigned roles of the media and with the overall professional culture of the media system. As Mojca Pajnik has noted, when newspapers first developed in the eighteenth and nineteenth centuries, they were understood to serve as a forum for citizens to discuss public issues and exchange views on matters of public importance.²⁵ But over time this concept of the media faded as newspapers came to be seen as the private property of media owners, be they corporate owners or private individuals. John Dewey expressed his concern about this phenomenon in 1927, averring that the “commodification of communication” in the United States was resulting in the “eclipse of the public”.²⁶ With this, freedom of the press, in its original sense, gave way to freedom of the media owners.

In a brilliant article for *Media, Culture & Society*, Robert W. McChesney argued in 2003 that the oft-touted choice between government regulation of the media and a free market sets up a false dichotomy for two reasons. The first is that there is always regulation of the media, considering the assignment of broadcast frequencies, the requirements for granting licenses to broadcast and print media outlets, or copyright issues. No media market can exist without some form of regulation. The second reason is that the false dichotomy distracts us from the real choice, which is between regulation in the interest of the public and regulation in the interest of media owners, which is to say in the interest of private concerns.²⁷ Although we might offer a qualification to McChesney’s thesis by saying that the dichotomy between these two types of regulations is also a false one, as it is not clear what is “the interest of the public” and who defines it, we can generally agree with his conclusion that “deregulation” ultimately translates to allowing private interests to dictate the media agenda. But such deregulation may have some unintended effects. Along this line, Curran, Iyengar, Lund, and Salovaara-Moring have warned, on the basis of a comparative study of four countries with differing media systems (Denmark, Finland, the United Kingdom, and the United States), that “deregulation of the broad-

²⁴ IDEM, *Entangled Evolutions* (above fn. 10), 146.

²⁵ Mojca PAJNIK, *The Utopia of Mass Media: Towards Public-generated Media*, *Sociology, Thought and Action – Sociologija, Mintis ir Veiksmas* 23 (2008), n. 3, 99-114, 100f., available at <<http://www.ku.lt/sociologija/files/2008-3.p.99-114.pdf>>.

²⁶ Quoted in *ibid.*, 100.

²⁷ Robert W. MCCHESENEY, *Theses on Media Deregulation*, *Media, Culture & Society* 25 (2003), n. 1, 125-133, 126.

cast media is likely, on balance, to lead to lower levels of civic knowledge”.²⁸ The rather obvious reason is that, when the media exist to serve the interests of private owners, profit typically becomes the paramount concern, and news and other programs are understood in the first place as “products” designed to maximize profits. Referring to the post-communist transformation of the media in the Czech Republic, Hungary, and Poland, Ágnes Gulyás noted that

“[c]ommercialization of the media had an important influence on the expanding supply. Products with mass appeal and with entertainment functions, such as tabloid newspapers or women’s magazines, were among the most successful”.²⁹

Klvaňa goes even further when discussing Czech reformed media. According to him, Czech popular culture plays on nostalgia through the re-popularization of “communist content”, which has helped to “perpetuate the communist taste and created a social climate in which it is not unthinkable for voters to vote communist”.³⁰ Klvaňa believes that this deprives Czech citizens of a broad range of cultural resources.

Whether one subscribes to a representative liberal theory of democracy³¹ – which emphasizes the need for civility in public discourse and the role of the media in assuring the transparency of at least some facets of policy-making – or the rival participatory liberal theory – which aspires to use the media to make citizens active participants in public affairs and downplays civility in the interest of allowing all voices to be heard in their natural tone – one is likely to agree that “no one expects or desires that all citizens spend all their time discussing public affairs”.³² In this sense, the interests of private media owners go hand in hand with the attitude of the audience, which is not perpetually seeking to be enlightened, but on the whole wants, above all, to be entertained. From this, it follows that it is up to the viewers and readers to make their preferences known and to make them count. Whereas advocates of a representative approach downplay the need for media diversity but want to foster a deliberative approach in the interest of producing reasonable policy outcomes, those preferring a participatory approach place more stress on citizens’ participation itself, and value “diversity in terms of information, viewpoints and forms of

²⁸ James CURRAN et al., *Media System, Public Knowledge and Democracy: A Comparative Study*, *European Journal of Communication* 24 (2009), n. 1, 5-26, 23, available at <<http://www.gold.ac.uk/media/media-system.pdf>>.

²⁹ GULYÁS, *Print Media in Post-Communist East Central Europe* (above fn. 22), 91.

³⁰ Tomáš P. KLVAŇA, *New Europe’s Civil Society, Democracy, and the Media Thirteen Years After: The Story of the Czech Republic*, *International Journal of Press/Politics* 9 (2004), n. 3, 40-55.

³¹ We are using the terminology employed by Myra MARX FERREE, William A. GAMSON, Jürgen GERHARDS, and Dieter RUCHT in their article *Four Models of the Public Sphere in Modern Democracies*, *Theory and Society* 31 (2002), n. 3, 289-324.

³² *Ibid.*, 295.

expression”, in the hope that such diversity may include the largest possible number of citizens in the public forum.³³

To these two approaches to the public sphere in democratic society, one may add also those of discursive theory, identified with Jürgen Habermas, and constructionist theory, among whose advocates one may mention Nancy Fraser, Seyla Benhabib, and Iris Marion Young. While constructionists tend to be pessimistic “about the possibility of separating oppressive power from speech” and “challenge the desirability of a single public sphere, preferring the idea of multiple independent public spheres”³⁴ – a preference which effectively downgrades the notion of a true public sphere – advocates of discursive theory embrace the value of popular inclusion championed by participatory liberal theorists, but wed this to a desire to maintain certain minimal standards of civility in the public sphere. Constructionists have the least use for the standards of civility, fearing that they may be employed to stifle debate.³⁵ All four theories agree that the media should offer *service to citizens, not products to consumers*. For advocates of the representative liberal theory, according to Ferree, Gamson, Gerhards, and Rucht, the primary service is to provide adequate information to allow interested citizens to understand something of what is going on in the government; according to the other three theories, the media should also foster public participation in the discussion of issues and policies. Here commercial interests sometimes obtrude, for example when the discussion about current local issues is sidelined in favor of lengthy coverage of a natural disaster in a faraway country. However, some observers have argued that for the media to foster public discussion, it must convey the views of citizens – for example by coverage of the deliberations of NGOs concerned with human rights or of environmental advocacy groups, though corporations and other businesses serving the public interest should also be considered appropriate participants in public discussions, at least where there is no conflict of interest. The increasingly common practice of posting readers’ comments behind articles published online and of reading extracts from viewers’ comments about issues on television news cannot be considered as giving the public any real influence on policy-making; it may even have, in fact, a largely negative effect on it, insofar as it conjures an illusion of inclusion and participation without empowering either the commentators or the audience more generally. Moreover, those posting comments do not know who their audience is, aside from the rather broad category of “readers of that particular online paper”. But, as Mojca Pajnik has

³³ Ibid., 296, quoting from Peter DAHLGREN, Introduction, in IDEM/Colin SPARKS (eds.), *Communication and Citizenship: Journalism and the Public Sphere*. London 1991, 11.

³⁴ FERREE et al., *Four Models of the Public Sphere* (above fn. 31), 306f., 309.

³⁵ Ibid., 318.

noted, to the extent that the media think in terms of providing service to their readers/viewers, they tend to

“start from the assumption that an a priori relevant form of communication is one that originates with the political representatives and economic lobbies and flows in the direction of citizens, from one group of political representatives to the other, and from one economic lobby to a competitive lobby – by way of the media. By automatically attributing newsworthiness to the activity of economic and political structures, the mass media not only emulate PR skills and communication management strategies, but legitimize these structures as a ‘new public’.”³⁶

Post-socialist Transformation in Central and Southeastern Europe

Immediately following the collapse of the communist organizational monopoly in Central and Southeastern Europe, it was widely assumed that there was no need for any legislation on the media because they could presumably take care of their own affairs. But gradually, and often after prolonged parliamentary debate, regulatory laws were adopted and typically revised several times. In Bulgaria, for example, a Law on Radio and Television was passed as late as in 1998, only to be amended nine times between 1999 and 2003. In Croatia, the media laws were amended eleven times between the mid-1990s and 2004.³⁷ Moldova passed a law on the press in 1994, and then amended it eight times in the course of the following decade. In Albania, a law on the press was drafted in 1992 with the assistance of the Friedrich Ebert Foundation and modeled on the media law of Northrhine-Westphalia, one of Germany’s *Bundesländer*. However, to Albanian journalists the law seemed to be overly complex, and in 1997 a new law was passed with only one general provision: “The print media are free. Media freedom is protected by law.”³⁸ The instability of media legislation has also been characteristic for Serbia, where a restrictive broadcasting law was passed in May 1997; the law provided that “no private radio or television station would be allowed to broadcast to an audience of more than 25 per cent of the 10.5 million population”.³⁹ In October of the following year, a new law on the media was published.⁴⁰ Among other things, the law established rather

³⁶ PAJNIK, *The Utopia of Mass Media* (above fn. 25), 103.

³⁷ Sandra B. HRVATIN / Brankica PETKOVIĆ, *Regional Overview*, in: Brankica PETKOVIĆ (ed.), *Media Ownership and Its Impact on Media Independence and Pluralism*. Ljubljana 2004, 9-38, 13f., available at <http://www2.mirovni-institut.si/media_ownership/overview.htm>.

³⁸ Quoted in *ibid.*, 15.

³⁹ *Zakon o izmenama i dopunama Zakona o sistemima veza, Službeni Glasnik Republike Srbije*, 14 May 1997, available at <<http://www.e-glasnik.rs/SIGlasnikPortal/pages/home.xhtml>>.

⁴⁰ *Zakon o javnom informisanju Republike Srbije*, 22 October 1998, 21, available at <<http://www.arsetnorma.com/documents/Zakon%20o%20javnom%20informisanju%20RS.pdf>>.

elastic criteria for silencing critical voices, and specifically banned the broadcast of Serbian-language programs by stations based outside the country. Harassment, intimidation, and manipulation of the Serbian media was characteristic during the years of Slobodan Milošević's leadership (1987-2000) and, after he was removed from power in October 2000, new laws on broadcasting, public information, and telecommunications were passed between 2002 and 2003. In August 2009, yet another law on the media was adopted, but the measure was referred to the Constitutional Court of Serbia for judgment in view of the heavy fines it prescribed for any media found guilty of libel, among other reasons.⁴¹

Media "demonopolization and (partial) remonopolization" – a trend highlighted by Karol Jakubowicz and Miklós Südkösd⁴² – has characterized much of the region. The main variation is between countries such as Poland and Hungary where foreign investors arrived early and, at least initially, dominated local media markets, and countries such as Slovenia and Croatia, where the media remained at least partly in the hands of local entrepreneurs. In Hungary, however, "some of the media outlets originally acquired by Western firms have been either abandoned or re-acquired by the state".⁴³ In Poland, some 31 media company mergers had taken place already by 2001, in spite of anti-concentration provisions in the legislation.⁴⁴ In Croatia, ownership restrictions in the broadcasting media were lifted in 2003, although there were still restrictions on single firms or investors owning more than one broadcasting entity.⁴⁵ In Slovakia, anti-concentration legislation was passed only in 2000, seven years after the country separated from the Czech Republic. The lack of rules about ownership transparency regarding the print media has remained an issue of concern to this day.⁴⁶

One could simply claim that depoliticizing the media proved impossible throughout the region because the media are inevitably political. However, elites did not engage in impossible undertakings, but thought in terms of demonopo-

⁴¹ Does the New Information Law Abolish Media Freedom in Serbia?, *Peščanik*, 11 September 2009, available at <<http://pescanik.net/2009/09/does-the-new-infomation-law-abolish-media-freedom-in-serbia/>>.

⁴² Karol JAKUBOWICZ / Miklós SÜDKÖSD, Twelve Concepts Regarding Media System Evolution and Democratization in Post-Communist Systems, in: IDEM (eds.), *Finding the Right Place on the Map: Central and Eastern European Media Change in a Global Perspective*. Bristol, Chicago/IL 2008, 16.

⁴³ Andrew K. MILTON, News Media Reform in Eastern Europe: A Cross-National Comparison, *Journal of Communist Studies and Transition Politics* 12 (1996), n. 4, 7-23, 18.

⁴⁴ Beata KLIMKIEWICZ, Poland, in: PETKOVIĆ (ed.), *Media Ownership and its Impact* (above fn. 37), 363-401, 365; and HRVATIN / PETKOVIĆ, *Regional Overview* (above fn. 37), 23.

⁴⁵ PERUŠKO, *Media and Civic Values* (above fn.13), 232.

⁴⁶ Slovakia – Freedom of the Press 2011, available at <<http://freedomhouse.org/report/freedom-press/2011/slovakia>>; cf. Gabriel ŠIPOŠ, Slovakia, in: PETKOVIĆ (ed.), *Media Ownership and its Impact* (above fn. 37), 447-461, 448f.

lizing the media and of giving the market a greater role in regulating them. That said, when comparing Lech Wałęsa, Franjo Tuđman, Slobodan Milošević, and Vladimír Mečiar – respectively the first post-communist presidents of Poland, Croatia, and Serbia as well as the first prime minister of independent Slovakia – one has to conclude that their desire to see the press supportive of government policy was strong. Wałęsa did not succeed in this regard, but both Tuđman and Milošević did manage to bring the most important media outlets under their indirect influence. In Slovakia, the Mečiar years marked the apex of political manipulations, which included “threatening journalists, limiting access, cutting off broadcast stations’ electricity, and proposing a prohibitive newspaper tax that would have suffocated small publications”.⁴⁷ In 1996, the Mečiar government even persuaded a sympathetic enterprise to purchase the Slovak national daily *Narodna Obroda* and to dismiss its editor, Tatiana Repkova.⁴⁸ The situation in Slovakia is better today, but government pressures continue nonetheless.⁴⁹ In Romania, national television remained under the control of the Office of the President up to 1996 and continues to nominally be under the control of the president and the governing party. The President’s office continues to have influence over national newspapers and broadcasters, while local politicians have done their best to control small media outlets.⁵⁰ There have also been reports of pressures on editors and journalists in Macedonia,⁵¹ controversy in the Czech Republic about a bill to criminalize “the publication of information gained from

⁴⁷ Slovakia, *Press Reference.com*, available at <<http://www.pressreference.com/Sa-Sw/Slovakia.html>>.

⁴⁸ For a report on this event, see Jane PERLEZ, Dismissal of Slovak Editor Called Setback for Press Freedom, *New York Times*, 29 November 1996, available at <<http://www.nytimes.com/1996/11/29/world/dismissal-of-slovak-editor-called-setback-for-press-freedom.html>>.

⁴⁹ Magdalena ZACKOVA, Slovak’s President Re-election Pits Press and Government Against Each Other, *New Europe*, 20 April 2009, available at <<http://www.neurope.eu/blog/slovak-president-re-election-pits-press-and-government-against-each-other>>; Beata BALOGOVÁ / Michaela TEREZANI-STANKOVÁ, Advancing from Fighters to Journalists, *The Slovak Spectator*, 21 April 2010, available at <http://spectator.sme.sk/articles/view/38598/2/advancing_from_fighters_to_journalists.html>.

⁵⁰ Peter GROSS, Media in the First Post-Communist Decade, in Henry F. CAREY (ed.), *Romania since 1989: Politics, Economics, and Society*. Lanham/MD 2004, 195; and Manuela PREOTEASA, Romania, in: PETKOVIĆ (ed.), *Media Ownership and its Impact* (above fn. 37), 403-424, 422.

⁵¹ See Jolyon NAEGELE, Macedonia: News Media Under Fire for Poor Reporting, Government Manipulation, *Radio Free Europe – Radio Liberty*, 3 May 2002, available at <<http://www.rferl.org/articleprintview/1099604.html>>; and Snežana TRPEVSKA, Macedonia, in: PETKOVIĆ (ed.), *Media Ownership and its Impact* (above fn. 37), 285-320, 314. For a detailed overview of the media landscape in Macedonia during its first decade of independence, see Vesna ŠOPAR / Emilija JOVANOVA, The Media System in the Republic of Macedonia: Broadcasting between the Normative and the Real, *Southeast European Media Journal*, 6 December 2000, available at <<http://www.mediaonline.ba/en/?ID=12>>.

wiretaps without the subject's permission",⁵² and intense criticism of Hungary after the country's parliament, dominated by Prime Minister Viktor Orbán's Fidesz Party, passed a law in December 2010 authorizing a

"newly created National Media and Communications Authority to impose heavy fines for coverage that it considers unbalanced or offensive to human dignity or common morals".⁵³

The aforementioned challenges – delays in the passage of laws regulating the media, the instability of such legislation, monopoly ownership of the media, as well as pressures by government and media owners on editors and journalists – have been characteristic of most, if not all, of the post-socialist countries in Central and Southeastern Europe. Slovenia's experience since 1990 as regards the media is thus, in several respects, typical of what the region as a whole has been experiencing.

The Slovenian Media Scene, 1990-2004

To understand how the media figure within the broader context of Slovenian politics, one needs to understand the political divides in the country. The left-right divide in Slovenia does not focus primarily on social policy, medical care, or pensions, or, for that matter, on economic policy; the subjects of polarization are first and foremost religion, nationalism, and the attitude toward the past, especially toward the socialist era (1945-1990) and toward the Second World War. Janez Janša, head of the Slovenian Democratic Party and prime minister between 2004-2008 and again since January 2012, has been the dominant figure on the right, while Milan Kučan, former president of Slovenia (1991-2002), remains the lodestar for those on the left. Although out of office, Kučan has maintained a political presence by organizing a club of influential businessmen and academics called *Forum 21*, which organizes debates and hosts lectures.⁵⁴ In 1993, Janez Drnovšek, then prime minister of Slovenia, began to assemble his own circle, as a counterweight to Kučan's, which was, at the time, the only important power clique in the country. In his last years, however, Drnovšek moved away from politics, and left behind an amorphous association called *Gibanje za pravičnost in razvoj* (Movement for Justice and Development), dedicated to

⁵² Markéta HULPACHOVÁ, New Bill Limits Media Freedom, *The Prague Post*, 12 November 2008, available at <<http://www.praguepost.com/archivescontent/7236-new-bill-limits-media-freedom.html>>.

⁵³ Judy DEMPSEY, Hungary Waves Off Criticism Over Media Law, *New York Times*, 25 December 2010, available at <<http://www.nytimes.com/2010/12/26/world/europe/26hungary.html?scp=1&sq=hungary+media+law&st=nyt>>.

⁵⁴ Brankica Petković, chief editor of *Media Watch*, in an interview with Sabrina Ramet, Ljubljana, 18 June 2008. See also Forum 21's homepage, available at <<http://www.forum21.si/>>.

“raising human consciousness and making the world a better place”.⁵⁵ However, after Drnovšek’s death in February 2008, the Movement lost its public presence and today has no influence whatsoever on Slovenian political and cultural life.

Within this context, it is readily comprehensible why the Catholic Church repeatedly complained that the press was against the Church, dominated by “communists”, and the like throughout the years that the left dominated both politics and the media (from 1992 to 2004, with a brief interruption in 2000). It is also immediately clear why the Church celebrated the electoral victory of Janša’s party in the October 2004 elections.⁵⁶

Until 1994, socialist legislation governing the media was still in force, and this legislation did not provide for the privatization of the media or for the founding of private media outlets. But new media were founded nevertheless, and old media were privatized, literally in a legal limbo. Between 1990 and 1994, the national authority for telecommunications granted broadcasting licenses and assigned frequencies, despite the fact that it had no legal authority to do so. The important broadcast frequencies had all been allocated by 22 April 1994. As Hrvatin and Milosavljević have noted,

“[i]t was not by chance that the Mass Media Act, which specified methods and terms under which a broadcasting license could be granted, was passed only one day after the last important broadcasting license was awarded (to TV3)”.⁵⁷

Concerning the privatization of the preexisting daily and weekly press, Slovenian decision-makers confronted a choice between carrying out privatization in accord with the Transformation of the Ownership of Enterprises Act of 1992, on the one hand, and doing so under a new legislation to be drawn up specifically for the media, on the other. The decision was taken to carry out

⁵⁵ Danilo Slivnik, the recently deceased former chief editor of *Mag*, in an interview with *Mladina*, 18 June 1996, 20-23, transl. in Foreign Broadcast Information Service, *Daily Report*, FBIS-EEU-96-127 (1 July 1996), 44-46; confirmed by Brankica Petković, interview (above fn. 54). See also the website of the Movement, available at <<http://www.gibanje.org/index.php?lang=en>>.

⁵⁶ See, for example, the annual sermons at Brezje on 15 August (the Assumption of the Blessed Virgin Mary), which are traditionally critical of the state of affairs in Slovenia. In these sermons, the media are often criticized for being hostile towards Catholics and the Church. Cf. for example Rode kritičen v pridigi na Brezjah, *Slovenska tiskovna agencija*, 15 August 2003, available at <<http://24ur.com/novice/slovenija/rode-kriticen-v-pridigi-na-brezjah.html?ar=>>>; Stres na Brezjah pozval k solidarnosti in trdnim družinam, *ibid.*, 15 August 2010, available at <<http://www.siol.net/novice/slovenija/2010/08/vnebovzetje.aspx>>.

⁵⁷ Sandra B. HRVATIN / Marko MILOSAVLJEVIĆ, Media Policy in Slovenia in the 1990s: Regulation, Privatization, Concentration and Commercialization of the Media. Ljubljana 2001, 15. A similar thing transpired in Macedonia where, as Vesna Šopar and Emilija Jovanova report, there was an “explosive development of broadcasters last[ing] until 1997 when the Law on Broadcasting Activity was passed”. Cf. ŠOPAR / JOVANOVA, The Media System in the Republic of Macedonia (above fn. 51).

privatization under a scheme drawn up specifically for the print media. According to this scheme, at the daily newspaper *Delo*, for example, 10 % of shares were allocated to the Pension Fund, 10 % to the Indemnification Fund, 20 % to the Development Fund, and 60 % to what was described as “internal buyout”; this internal buyout meant in practice that 20 % of the shares were distributed among current and past employees in the form of ownership certificates, 22 % were offered for sale to the employees (editors and journalists) at *Delo*, and 18 % were to be sold to *Delo*’s readers.⁵⁸ Instead of keeping their shares, however, the employees happily sold their ownership certificates to local entrepreneurs, while corporations proved to be the most interested of *Delo*’s readers in buying shares in the enterprise.⁵⁹ By 2004, the largest single shareholder in *Delo* was the Laško Brewery, which held 25 % of the shares. The picture was much the same at *Dnevnik*, Ljubljana’s other major daily newspaper, where, as of 2004, DZS, a large stationery publisher, owned 51.04 % of the stock, with an Austrian concern, Styria Medien AG, holding about a quarter of the shares.⁶⁰ The Maribor daily newspaper, *Večer*, experienced similar changes. At the end of 2000, small stockholders held 24 % of its shares but, by the end of 2002, most of these shares had been sold off; Infond Holding, Leykam (an Austrian print company), Probanka, SOD, *Delo* Prodaja, DZS, and Infond ID emerged as the largest shareholders. As there was considerable overlap in the ownership of Infond ID and Infond Holding, the owners of these two companies controlled, by 2003, a 51 % share in the Maribor newspaper.⁶¹

There were some early efforts in Slovenia to launch politically oriented newspapers but these proved to be commercially unsuccessful. The conservative daily *Slovenec*, launched with government funding in 1991, when Christian Democrat Lojze Peterle was prime minister, folded in 1997, while a left-liberal daily, *Republika*, started in late 1992, likewise collapsed. A third politically oriented newspaper, *Jutranjik*, appeared in June 1998, only to disappear within one month.⁶² By 2001, *Delo*, *Dnevnik*, *Večer*, and *Slovenske novice* controlled more than 90 % of the daily newspaper market; of these, all but *Slovenske novice* had emerged out of the socialist system. *Delo* (with a circulation of 46,726 copies in 2011) and *Slovenske novice* (78,194 copies) are owned by the Laško Brewery (*Pivovarna Laško*), which until recently was owned by Boško Šrot. *Delo*, in turn, has a majority (80 %) stake in the shares of *Večer* (32,769 copies), which was why the Competition Protection Office of the Slovenian Ministry of the Economy

⁵⁸ HRVATIN / KUČIČ / PETKOVIČ, *Media Ownership in Slovenia* (above fn. 12), 53f.

⁵⁹ Ali Žerdin, editor of the Saturday supplement to *Dnevnik*, in an interview with Sabrina Ramet, Ljubljana, 17 June 2008; see also HRVATIN / KUČIČ / PETKOVIČ, *Media Ownership in Slovenia* (above fn. 12), 55.

⁶⁰ HRVATIN / KUČIČ / PETKOVIČ, *Media Ownership in Slovenia* (above fn. 12), 62.

⁶¹ *Ibid.*, 67.

⁶² *Ibid.*, 75.

demanded in 2010 that *Večer* should be sold to someone else. This, however, has not taken place yet.⁶³ Finally, the DZS Company of Bojan Petan, a supporter of the politician Gregor Golobič (Zares Party), holds a majority of the shares (35,1 %) in *Dnevnik* (with a circulation of 37,194 copies in 2011).⁶⁴ However, the Zares Party, which had gained nine parliamentary seats in the November 2008 elections, failed to win enough votes in the December 2011 elections to reenter the parliament.⁶⁵

As it became apparent that external owners were the largest investors in the media, there were calls for a new law to regulate the mass media; in July 2000, the right-wing coalition which was in power for six months (May – November 2000) presented a proposal for a new law on mass media, and discussion got underway. The new Mass Media Act took effect on 26 May 2001, by which time a center-left coalition was back in power. As Hrvatin and Petković note, the Mass Media Act of 2001 “was dedicated in its entirety to the protection of media pluralism and diversity” and “limited media concentration and ownership stakes”. The Act also created a new supervisory media council “with essentially different responsibilities and powers” from the agency set up by the media legislation of 1994.⁶⁶ On the crucial issue of the journalists’ right to protect their sources, the new legislation was ambiguous, guaranteeing that “editors, journalists and authors of articles are not obliged to reveal their source[s] of information, unless the penal code requires that they do so”.⁶⁷ Journalists are required to reveal their sources in cases where the failure to do so would result in failure to inform the authorities of preparations to perpetrate a crime (Article 280 of the Penal Code) or about a crime which has already been committed (Article 281). The aforementioned articles do not apply only to journalists, but also to all citizens of Slovenia. Furthermore, according to the Criminal Procedure Act, the authorities have the right to demand that journalists reveal their sources if they came across information which could serve as important evidence in a criminal procedure. According to Article 236 of the Criminal Procedure Act, persons who are, with a few exceptions, exempt from testifying are lawyers, physicians,

⁶³ Klara ŠKRINJAR / Mario BELOVIČ / Vanja TEKAVEC, *Lastništvo tiskanih medijev: kdo bo preživel – najboljši ali najcenejši?*, *Delo*, 28 June 2011, available at <<http://www.delo.si/novice/slovenija/lastnistvo-tiskanih-medijev-kdo-bo-prezivel-ndash-najboljsi-ali-najcenejsi.html>>.

⁶⁴ Slovenska oglaševalska zbornica [Slovenian Advertising Chamber], available at <<http://www.soz.si/>>. See also Igor KRŠINAR, Report of the ZNP on the Freedom of the Press in Slovenia for year 2009, *Združenje novinarjev in publicistov*, available at <<http://www.znp.si/index.php/english-texts-mainmenu-27/146-report-of-the-association-of->>.

⁶⁵ *Predčasne volitve v državni zbor 2011* [Early elections to the National Assembly in 2011], available at <http://volitve.gov.si/dz2011/rezultati/rezultati_slo.html>.

⁶⁶ Sandra B. HRVATIN / Brankica PETKOVIČ, *You Call This a Media Market? The Role of the State in the Media Sector in Slovenia*. Ljubljana 2008, 109, 138.

⁶⁷ Quoted in Igor MEKINA, *Transition of the Media in Slovenia*, *AIM Press*, 18 July 2001, 1, available at <<http://www.aimpress.ch/dyn/trae/archive/data/200107/10718-004-trae-lju.htm>>.

social workers, therapists, and others if they are bound by their professional ethics to keep secret what they have learned in the course of exercising their profession.⁶⁸ According to Andrea Tratnik, it is not entirely clear whether a journalist may be subsumed under “others” since, while physicians and social workers, for example, have a professional duty to keep privileged information learned in their work secret, a journalist is usually not bound in an analogous way; keeping information secret is understood, rather, to be his or her right rather than obligation. Tratnik believes that it is up to the interpretation of the court in each individual case whether the disclosure of a journalist’s source(s) is in the interest of the criminal procedure or not.⁶⁹ The law also provided that a legal or natural person or group of persons who owned more than a 20 % stake in a daily newspaper publisher would not be allowed to be an owner or co-founder of a broadcast firm, whether radio or television, and vice versa.⁷⁰ But the main importance of the law was to legalize the state of affairs which had already developed.

The privatization of the Slovenian media had quickly become corrupted, as political elites arranged for their cronies to buy up shares, without issuing public calls for tenders. Most of the process of privatization in this sector was non-transparent and made use of creative financing to effect the transfer of stock to companies which consisted of little besides a mailbox, and had neither employees nor products or services.⁷¹ The transfers were arranged with low-interest loans from the *Nova Ljubljanska Banka* (New Ljubljana Bank), in which the Slovenian government had (and has) a controlling interest. Once key media were transferred into the hands of “reliable” owners, government politicians steered lucrative advertising by state-related companies to those media. This has been characteristic of both the center-left and center-right governments.

Janša’s First Term as Prime Minister, 2004-2008

On 3 October 2004, parliamentary elections were held in Slovenia. Twenty political parties fielded candidates, and seven of them succeeded in winning seats in the National Assembly. The biggest winner was Janez Janša’s SDS, which nearly doubled its support, from 15.8 % of the vote in 2000 to 29.1 %. The center-left Liberal Democracy of Slovenia (LDS) slid from the 36.3 % in 2000 to a second-place finish with 22.8 % of the vote. Janša became prime minister, head-

⁶⁸ Criminal Procedure Act of the Republic of Slovenia, 7 September 2007, available at <http://www.policija.si/portal_en/zakonodaja/pdf/CriminalProcedureAct2007.pdf>.

⁶⁹ Andreja TRATNIK, Korak naprej pri varovanju pravice novinarjev do nerazkritja vira informacij, *Medijska preža* 38 (2010), 21f., available at <<http://mediawatch.mirovni-institut.si/bilten/seznam/38/viri/>>.

⁷⁰ HRVATIN / MILOSAVLJEVIĆ, Media Policy in Slovenia in the 1990s (above fn. 57), 46f.

⁷¹ HRVATIN / PETKOVIĆ, You Call This a Media Market? (above fn. 66), 69.

ing a four-party coalition government. Janša had won the elections by attacking the LDS for certain policies but, in the event, the Janša government continued those same policies.⁷² More specifically, when the SDS was in opposition, its leading figures talked of consensus, rather than just majority vote, and insisted that the opposition should not be ignored and that opposition parties should be represented in media programming councils in proportion to their strength in the parliament. Once they came into power, however, they set out to bring the media under their exclusive control.⁷³

STA News Agency

The key media which Janša wanted to bring under his control were the *STA news agency*, *Delo*, and *RTV Slovenia*. The first one had originally been set up as a private company, but in 2000 the government purchased some stock in the agency. Under Janša, the government nationalized it completely, by purchasing all remaining stocks of the *STA news agency*. Janša then appointed his press secretary to head the company.⁷⁴

The Daily Newspaper Delo

Janša's next target was *Delo*. In connection with this, a secret meeting took place in the office of the prime minister on 12 August 2005, which was attended by the businessman Boško Šrot, principal shareholder of the Laško Brewery, Igor Bavčar, principal shareholder of the Istrabenz Company, state secretary Adrijana Starina Kosem, and of course Janša himself. At this meeting – which ceased to be secret when Kosem and Šrot later decided to go public about it – Janša offered to arrange for shares in the Mercator company, a large retail chain, to be sold at a favorable price to Laško and Istrabenz, in exchange for *de facto* control of editorial and managerial appointments as well as the editorial policy at *Delo*, of which Šrot owned a decisive share.⁷⁵ Janša then appointed the now deceased journalist Danilo Slivnik as general manager at *Delo* and journalist Peter Jančič as editor-in-chief. Kosem became president of the supervisory board. During the following months, Janša maintained close vigilance over the

⁷² Lenart Kučič, *Delo* journalist, in an interview with Sabrina Ramet, Ljubljana, 24 June 2008.

⁷³ Marko Milosavljević, professor of journalism at the University of Ljubljana, in an interview with Sabrina Ramet, Ljubljana, 24 June 2008.

⁷⁴ Vanja Pirč, Reorganizirana agencija, *Mladina*, 26 October 2007, available at <<http://www.mladina.si/95513/reorganizirana-agencija/>>.

⁷⁵ Boris Vežjak, professor of philosophy at the University of Maribor, in an interview with Sabrina Ramet, Maribor, 13 April 2010. Cf. Adrijana Starina Kosem in Boško Šrot danes [Adrijana Starina Kosem and Boško Šrot today], *Mladina*, 25 November 2011, available at <<http://www.mladina.si/106981/adrijana-starina-kosem-in-bosko-srot-danes/>>.

paper and, according to Kosem's later claims, he was sending SMS messages to the editors of *Delo* on a daily basis, criticizing editorial decisions and exerting pressure to get the kind of reportage he wanted to see.⁷⁶

Later, however, both Šrot and Kosem broke with Janša; at least in Šrot's case, this was out of political calculations, since he could see that Janša's star was descending and that the Social Democratic Party of Borut Pahor was to win the next parliamentary elections.⁷⁷ Jančič was then removed from the editorship and Janez Markeš, who had previously served as editor of the right-of-center periodical *Mag* (2005-2007), was appointed editor-in-chief at *Delo*. At *Mag*, Markeš had made a name for himself by enforcing professional standards and, in his new position at *Delo*, he insisted that the paper should be neither pro-government nor anti-government, but serve as an honest "watch-dog" over government proceedings and policies. According to Markeš, on 8 May 2008, Šrot invited him to lunch and told him directly that he wanted to use the paper to inflict political harm on Janša and to boost Pahor's prospects in the elections scheduled for later that year. When Markeš showed himself disinclined to use the paper to advance political objectives, Šrot fired him, appointing Darijan Košir in his place.⁷⁸

RTV Slovenia

The high priority that Janša attached to assuring "friendly" coverage of his government by *RTV Slovenia* may be discerned from the fact that a draft law regulating the station was readied within the first five months of his government's term in office. The draft law was prepared without any input from either academic specialists or journalists' associations and it immediately provoked

⁷⁶ Ibid.; Jansa Says Starina Kosem's Claims Make No Sense, *Slovenska Tiskovna Agencija*, 12 June 2007, available at <<http://www.sta.si/vest.php?s=a&id=1167466>>; Neva NAHTIGAL, Slovenian Media Battles, February 2008, available at the website of the Slovenian Union of Journalists (*Sindikat Novinarjev Slovenije*), available at <http://sindikat.novinar.com/images/file/Slovenian_media_battles.pdf>; and Dan BILEFSKY, Slovene Leader Accused of Media Censorship, *New York Times*, 8 January 2008, available at <<http://www.nytimes.com/2008/01/18/world/europe/18iht-SLOVENIA.4.9331908.html?pagewanted=all>>.

⁷⁷ Matej ŠURC, RTV Slovenia journalist, in an interview with Sabrina Ramet, Ljubljana, 13 April 2010. Cf. KRŠINAR, Report of the ZNP (above fn. 64); Janša vs. Pahor: We'll Have To Check That, *sleeping with Pengovsky*, 21 August 2008, available at <<http://www.pengovsky.com/2008/08/21/well-have-to-check-that/>>.

⁷⁸ Janez Markeš, former editor of *Delo*, in an interview with Sabrina Ramet, Ljubljana, 17 June 2008. Cf. Igor KRŠINAR, Report on the Freedom of the Press in Slovenia for 2010, *Združenje novinarjev in publicistov*, January 2011, available at <<http://www.znp.si/english-texts-mainmenu-27/236-report-on-the-freedom-of-the-press-in-slovenia-for-2010>>. For Darijan Košir's biography, see the Republic of Slovenia Government Communication Office's website, available at <http://www.ukom.gov.si/en/about-us/role_and_brief_history/list_of_directors_of_the_office_since_1960/darijan_kosir/>.

criticism.⁷⁹ After the Slovene Association of Journalists protested, the International Federation of Journalists issued a statement, characterizing the draft law as “an attempt to establish political supervision” over the national television broadcaster.⁸⁰ The European Federation of Journalists (EFJ) sent a letter to Vasko Simoniti, Janša’s Minister of Culture, to register its concerns. Among other things, the EFJ stated that its

“impression is not of a consensus-based process, [...] but of a politically driven and ideological assault on one of the success stories for public broadcasting in eastern and central Europe”.⁸¹

Of particular concern to critics of the bill was the fact that it would allow the ruling coalition to appoint a majority of the members on the programming council of *RTV Slovenia*.

A referendum on the measure had been scheduled for 25 September 2005. On the eve of the referendum, the ombudsman Matjaž Hanžek warned that, in his view, the bill would be “a step backwards as regards democracy and human rights”.⁸² Prime Minister Janša defended the measure, however, claiming that its purpose was not to politicize the station but, on the contrary, to counter “outrageous procedures of politicization” which had been characteristic at the public broadcaster under the legislation passed earlier.⁸³ Minister of Culture Simoniti, Foreign Minister Dimitrij Rupel (a recent convert to Janša’s party), Branko Grims (an MP from the Slovenian Democratic Party (SDS) and the principal author of the draft bill), Miro Petek (a former journalist, elected to the parliament as a member of the SDS in 2008), and Eva Irgl (an MP from the SDS) joined Janša in the campaign to promote the bill’s approval and passage. Grims was accused of narrating “fairy tales” after he “interpreted” a favorable U.S. State Department report about human rights in Slovenia in a way that inferred some criticism.⁸⁴ In fact, the government narrowly won public support for the draft bill when 50.20 % of those participating in the referendum voted in favor, and 49.02 %

⁷⁹ Ales GAUBE, Slovenia: Going After the Public Broadcaster, *Transitions Online*, 04/26, 23 April 2005, available at <http://archiv2.medienhilfe.ch/News/2005/SEE/SLO_Public%20broadcaster.htm>.

⁸⁰ As quoted in Agence France Presse (hereafter: AFP), 16 May 2005, in *LexisNexis Academic*, available at <<http://www.lexisnexus.com/>>.

⁸¹ Letter from Arne König, chairman of the EFJ, and Aidan White, general secretary of the EFJ, to Vasko Simoniti, Minister of Culture of the Republic of Slovenia, 17 May 2005, posted as an attachment to the website of the Slovene Association of Journalists, available at <<http://www.novinar.com/>>.

⁸² As quoted in *Večer* (Maribor), 7 September 2005, transl. in *BBC Worldwide Monitoring*, 7 September 2005, in *LexisNexis Academic*, available at <<http://www.lexisnexus.com/>>.

⁸³ As quoted in: PM Jansa Defends Act on RTV Slovenija, Calls for Yes Vote, Publications and Media Office, 19 September 2005, available at <<http://www.sta.si/vest.php?id=977731&s=a>>.

⁸⁴ Boris VEZJAK, *Somrak medijske avtonomije – boji za politično hegemonijo 2004-2008*. Ljubljana 2009, 109.

against it.⁸⁵ The Assembly adopted the measure the following month, and it came into force in mid-November 2005.

Let the Good Times Roll

With the *STA news agency, Delo*, and now also *RTV Slovenia* in his pocket, Prime Minister Janša hoped for a smooth term in office. Indeed, in 2006, the broadcast legislation was amended to broaden the rights of reply and correction, thereby also opening an additional path for government interference in the broadcast media.⁸⁶ In the months that followed, editors were replaced, journalists were dismissed for political reasons, and other journalists were threatened with reductions in salary, dismissal, or redeployment to less favorable posts if they did not toe the government's line. Stories about censorship were themselves censored – except in the case of *Mladina*, which was punished by having its advertising revenue choked off.⁸⁷ Advertorials, which is to say advertisements disguised as news stories, also spread in the Slovenian media.⁸⁸ One of the earliest post-November changes was the appointment of Stane Granda, columnist for the Catholic weekly *Družina*, as chair of the programming council at *RTV Slovenia* – an appointment enthusiastically welcomed by Franc Rode, who had served as archbishop of Ljubljana from 1997 to 2004.⁸⁹ But where Rode saw “culture [...] entering our media“, the EFJ, convening in Slovenia for the first time holding its annual meeting in Bled, expressed concern about a decline in journalistic standards.⁹⁰ The EFJ's concerns notwithstanding, Ervin Hladnik Milharčič, hitherto editor of *Delo's* Saturday supplement, was sacked that same month, and replaced by Irena Staudoher, whose journalistic experience involved

⁸⁵ AFP, 25 September 2005, in *LexisNexis Academic*, available at <<http://www.lexisnexus.com/>>. Just under 31 % of the eligible voters turned out for the referendum. See the report by Donald F. REINDL for *Radio Free Europe / Radio Liberty*, 3 October 2005, reprinted by *BBC Monitoring International Reports*, 18 October 2005, in *LexisNexis Academic*, available at <<http://www.lexisnexus.com/>>.

⁸⁶ HRVATIN / PETKOVIĆ, *You Call This a Media Market?* (above fn. 66), 64.

⁸⁷ *Ibid.*, 94; VEZJAK, *Somrak medijske avtonomije* (above fn. 84), 128f.; and *STA*, 2 May 2006, transl. in *BBC Monitoring Europe – Political*, in *LexisNexis Academic*, available at <<http://www.lexisnexus.com/>>.

⁸⁸ See Karmen ERJAVEC / Melita POLER KOVAČIĆ, *Relations With the Media: Who are the Main Actors in an Advertorial Production Process in Slovenia?*, *Journalism* 11 (2010), n. 1, 91-109.

⁸⁹ *STA*, 2 February 2006, in *NewsBank – Access World News*, through Georgetown University Library databases.

⁹⁰ *STA*, 10 April 2006, transl. in *BBC Monitoring Europe – Political*, in *LexisNexis Academic*, available at <<http://www.lexisnexus.com/>>. See original statement by the European Federation of Journalists, available at the Slovene Association of Journalists' website, available at <<http://www.novinar.com/novice/novica.php?id=395>>.

work for *Žurnal* (a free weekly), *Direkt* (a tabloid which has since collapsed), and *Mag*. Milharčič alleged that he had been removed for political reasons.⁹¹

In response, Jože Poglajen, president of the Executive Committee of the Journalists' Working Group at *Delo*, issued a public statement, according to which,

"[t]he sudden and unsubstantiated dismissal of the editor of *Sobotna priloga*, *Delo's* weekly weekend supplement, leaves no doubts. *Delo* is the main victim of the political purge being carried out in the Slovenian printed media. Even though they claim otherwise, the new president of the management board and 'his' new editor-in-chief are obviously merely executors of the political will which has nothing to do with the modernization of the newspaper's content or the improvement of [the] company's business results. The purpose behind the changes in the ownership and management structures is clear: a total submission of the newspaper to the current political authority."⁹²

Speaking for the government, Foreign Minister Rupel, who repeatedly returned to the subject of the Slovenian media, told *TV Primorka*:

"I sometimes wish that our media would be more patriotic and [...] be united in propagating, so to say, our truth and our views about the world."⁹³

Meanwhile, heads continued to roll. Within a few months, the entire programming council of *RTV Slovenia* had been replaced, as well as the chair of the Board of Management at *Delo*, two further members of that board, four members of the Supervisory Board of *Delo*, the director of *Večer*, the program director of *Radio Slovenia*, the program director of Slovenian Television, the editor-in-chief of *Večer*, and, as already mentioned, the editor-in-chief of *Delo*.⁹⁴ Moreover, in at least some cases, those appointed to fill these sensitive positions had weaker credentials compared to those they replaced – for example, persons lacking any

⁹¹ *Radio Television Slovenia* website, 10 May 2006, transl. in *BBC Monitoring – Europe*, 10 May 2006, in *LexisNexis Academic*, available at <<http://www.lexisnexis.com/>>; and *STA*, 17 June 2006, in *Access World News*, through Georgetown University Library databases. Cf. Jure TRAMPUŠ, Enoumje po Slovensko, *Mladina*, 23 April 2006, available at <<http://www.mladina.si/94924/enoumje-po-slovensko/>>.

⁹² Statement of the Executive Committee of *Delo's* Journalists, 12 April 2006, posted as an attachment to the website of the Slovene Journalists' Association, available at <<http://www.novinar.com/>>.

⁹³ From an interview given by Foreign Minister Rupel on 20 June 2006 at *TV Primorka*. Cf. the transcript at the Government's Media Center website, Intervju ministra dr. Rupla za TV Primorko, 26 June 2006, available at <http://www.mzz.gov.si/nc/si/medijsko_sredisce/novica/article/1019/11771/>.

⁹⁴ Response of the Slovene Association of Journalists to a Statement by the Ministry of Culture, signed by Grega Repovž, president of the Slovene Association of Journalists, 3 May 2006, posted as an attachment to the website of the Slovene Association of Journalists, available at <<http://www.novinar.com/>>. The names of the persons that have lost their positions are listed in the response.

previous experience or training in journalism were appointed to the Program Council at RTV Slovenia.⁹⁵

Undaunted by the protests, the Janša government continued its pressure on journalism, punishing those who would not bend.⁹⁶ Then, in the summer of 2007, Matej Šurc, a journalist at RTV Slovenia, and Blaž Zgaga, a journalist at *Večer*, drew up and circulated a petition against censorship and political pressures on journalists. Eventually signed by 571 journalists – amounting to one in every four Slovenian journalists – the petition accused the prime minister of “restricting media freedom” and listed various transgressions by Janša’s vassals, including changes to articles without the consent of the journalists signing the articles, non-publication of assigned articles “without any proper justification”, restrictions on the coverage of politically sensitive subjects, and deprivation of access to government officials for journalists who dared to write about the government in unflattering ways.⁹⁷ Although the petition was posted at the website of the Slovene Association of Journalists, the only magazine to publish its full text was *Mladina*, while the right-leaning *Mag* attacked Šurc personally. None of the daily newspapers published the petition.⁹⁸

The EFJ issued a statement on 27 September, less than three weeks after the petition had been signed and posted, supporting the initiative.⁹⁹ Subsequently, the signatories also delivered the petition to parliamentary speaker France Cukjati.¹⁰⁰ Within Slovenia, Kučan and some civil society representatives, such as Spomenka Hribar, supported the petition. However, Borut Pahor said little, except to deny that he had had anything to do with the petition. Among the conservative media, the Catholic weekly *Družina* published an attack on Šurc,

⁹⁵ Marko MILOSAVLJEVIĆ, Mediji, politika in cenzura, *Dnevnik*, 30 December 2006, available at <http://www.dnevnik.si/tiskane_izdaje/dnevnik/220370>.

⁹⁶ Such as the *Delo* correspondents Matija Grah and Rok Kajzer, both of whom lost their jobs in spring 2007. See Borut MEKINA, Gagging the Media. Slovenia: Under My Thumb, *Transitions Online*, 25 June 2007, available at <http://www.humanrightspoint.si/files/att/media/Mekina_Gagging%20the%20Media.pdf>.

⁹⁷ Petition against Censorship and Political Pressures on Journalists in Slovenia, 10 September 2007, posted as an attachment to Blaž ZGAGA, Slovenia’s Drift from Democracy, *The Guardian*, 19 July 2009, available at <<http://www.guardian.co.uk/commentisfree/libertycentral/2009/jul/19/slovenia-democracy>>.

⁹⁸ Matej Šurc, RTV Slovenia journalist, in an interview with Sabrina Ramet, Ljubljana, 23 June 2008. Cf. Vanja PIRC, Upor slovenskih novinarjev, *Mladina*, 5 October 2007, available at <http://www.mladina.si/tehdnik/200739/clanek/slo--mediji-vanja_pirc/>.

⁹⁹ EFJ Supports Petition Against Censorship and Political Pressures on Journalists in Slovenia, *IFJ Global*, 27 September 2007, available at <<http://www.ifj.org/en/articles/efj-supports-petition-against-censorship-and-political-pressures-on-journalists-in-slovenia>>.

¹⁰⁰ AFP, 17 October 2007, from <topic@afp.com>, by subscription. Readers wishing to locate this report from Agence France Presse or any others cited in this article may do so by searching with appropriate search words at *Lexis-Nexis Academic Universe*, available at <<http://www.lexisnexis.com>>.

signed by the president of the Catholic Association of Journalists, in which he was accused of having been a part of the old communist network and of seeking to restore the old regime through the petition; Šurc, a Catholic himself, was allowed to reply in *Družina*, and he denied both accusations.¹⁰¹

The petition of 10 September 2007 was by no means the first protest against political pressures on Slovenian media,¹⁰² but the sheer number of signatories and the breadth of the accusations made in it gave this petition a force and impact which previous petitions and protests lacked. The government issued a defensive press release, denying the charges presented in the petition and citing reports from *Reporters without borders* (from 2006) and *Nations in Transit* (from 2007) in its own defense.¹⁰³ While Šurc and Zgaga urged the government to set up an independent commission to study the situation of the media in the country,¹⁰⁴ the International Press Institute dispatched a fact-finding team to Ljubljana in November 2007, and followed up by sending a high-level mission to the Slovenian capital in March 2008.¹⁰⁵ When the World Press Freedom Index was published later that year, Slovenia had dropped by eight places – to 30th on the press freedom index.¹⁰⁶

Prime Minister Janša's popularity was already slipping when, in late summer 2008, barely two weeks before the parliamentary elections, the Finnish public television broadcast a program in which it alleged that Prime Minister Janša had accepted a bribe from a Finnish firm in connection with the sale of 135 ar-

¹⁰¹ Matej Šurc, interview, 23 June 2008 (above fn. 98). See Zato opustite laž in govorite resnico, *Družina*, 7 October 2007, available at <<http://www.druzina.si/ICD/spletnastran.nsf/all/201A9CEB4249AB32C125736900495636?OpenDocument>> and Šurc's reply to this commentary, V premislek, *ibid.*, 21 October 2007, available at <<http://www.druzina.si/ICD/spletnastran.nsf/all/29D536600CB6A185C12573770040EEB6?OpenDocument>>.

¹⁰² For prior examples, see the following articles: Threats to Editorial Independence and Existence, *Primorske novice*, 5 March 2007; Journalists' Organisations Condemn the Premature Recall of Two Slovene Correspondents, *Delo*, 20 April 2007; Unconstitutional Threats to the Activities of Journalist Organisations, 18 May 2007, Against Intimidation and Sanctions, 25 May 2007; Statement of Protest Against Actions of the Director of *Radio Slovenija*, 9 July 2007; and A Written Protest by the Journalists' Professional Organisations, 15 August 2007. All are posted as attachments to the website of the Slovene Association of Journalists, available at <www.novinar.com/>.

¹⁰³ Government of the Republic of Slovenia, A Statement on Media Freedom in Slovenia, 12 October 2007; cf. the critical commentary by the Slovenian journalists' organisations, Public Call to the National Assembly and the Government of the Republic of Slovenia, 17 October 2007, on the website of the Journalists' Union of Slovenia, available at <http://www.novinar.com/eng/PUBLIC_CALL_TO_THE_NATIONAL_ASSEMBLY_AND_THE_GOVERNMENT_OF_THE_REPUBLIC_OF_SLOVENIA.doc>.

¹⁰⁴ AFP, 4 January 2008, from <topic@afp.com>, by subscription.

¹⁰⁵ *Human Rights Press Point*, 17 March 2008, available at <<http://www.humanrightspoint.si/node/51>>.

¹⁰⁶ Slovenia Ranks 30th on Press Freedom Index, Republic of Slovenia, Government Communication Office, 22 October 2008, available at <<http://www.sta.si/en/vest.php?s=a&id=1331072>>.

moured vehicles to Slovenia in 2006.¹⁰⁷ Although Janša disputed the charges, this broadcast sealed his fate, and in the elections held on 21 September 2008 Pahor's Social Democrats received 30.45 % of the vote, putting them slightly ahead of the 29.26 % garnered by Janša's SDS.¹⁰⁸ More than three years later, after his party again placed second in the 4 December 2011 elections, Janša won a lawsuit against the Finnish YLE broadcaster, which was ordered to publish a retraction of its charge of bribery and to pay the former prime minister € 15,000 in damages.¹⁰⁹ Meanwhile in 2008, Pahor formed a coalition government with Gregor Golobič's Zares, Karl Erjavec's Pensioners' Party (DeSUS), and Katarina Kresal's LDS.

From Janša to Pahor

Even before the elections were held, the conservative Union of Slovene Journalists (*Združenje novinarjev in publicistov*, ZNP) had joined with the liberal Slovene Association of Journalists, together with eight individual signatories, in drafting a set of proposed guidelines for revising media policy in Slovenia. Among other things, the signatories recommended that

“people from the media industry, journalists' organizations and publishers' associations [...] should urgently initiate and discuss the establishment of a common self-regulatory body following the example of many European countries”.¹¹⁰

The signatories also recommended that the public should be allowed to register their assessments of the work of *RTV Slovenia* and that complaints about that broadcaster by listeners and viewers “should be processed by an external independent body whose status and powers should be defined by the law rather than by the *RTVS* statute”.¹¹¹

Soon after Pahor had been sworn into office as prime minister, his Minister of Culture, Majda Širca, in consultation with a team of academics and journalists, went to work on amending the law on *RTV Slovenia*. By November 2009, in spite of some differences of opinion among members of the team of consultants, Minister Širca was able to present her draft amendments for public discussion. In doing so, she stated that the bill would expand the autonomy of *RTV Slovenia*, and Grega Repovž, president of the Slovene Association of Journalists, declared

¹⁰⁷ AFP, 2 September 2008, in *LexisNexis Academic*, available at <<http://www.lexisnexis.com/>>.

¹⁰⁸ AFP, 29 September 2008, from <topic@afp.com>, by subscription.

¹⁰⁹ Former Slovenian PM Wins Libel Suit Against YLE, *YLE.fi*, 14 December 2011, available at <http://www.yle.fi/uutiset/news/2001/12/former_slovenian_pm_wins_libel_suit_against_yle_3102159.html>.

¹¹⁰ Towards a Revision of Media Policy in Slovenia, 23 June 2008, 9, posted as an attachment to the Journalists' Union of Slovenia, available at <<http://sindikatsloveniar.com/?m=10>>.

¹¹¹ *Ibid.*, 13.

his support for the measure. By contrast, Igor Kršinar, president of the ZNP, criticized the bill for allegedly narrowing the autonomy of the station.¹¹²

Among other things, the draft law included a provision that editorial appointments would be subject to approval by 65 % of the journalists at the station.¹¹³ But debates about the bill were intense, with sharply opposed viewpoints being expressed.¹¹⁴ The center-left government claimed that the law was intended to limit political influence on the state broadcast media, while the center-right opposition claimed that the law would have precisely the opposite effect.

The draft bill was approved by the Slovenian parliament in October 2010 but, as a result of pressure from SDS leader Janša, the government agreed to submit the measure to a referendum, as had been done with the media law of 2005. To the government's surprise, in 2010 only 14.78 % of eligible voters even bothered to vote (compared with 30.71 % in 2005¹¹⁵); of the 252,408 ballots cast, 180,820 (72.33 %) rejected the measure, with only 69,175 votes (27.67 %) in favor.¹¹⁶ While Janša and his allies celebrated, claiming that the outcome of the referendum showed that "people don't want politicised, commercialised and privatised public television",¹¹⁷ *Delo* gave expression to the government's point of view, ruling that, as a result of the bill's rejection, "[t]here will be no need for politicians to keep their hands out of the public broadcaster".¹¹⁸

In fact, during Pahor's three years as prime minister, the only new legislation regulating the media was passed late in his term in office: under pressure from the European Commission, the Audio-Visual Media Services Directive came

¹¹² Novela zakona o radioteleviziji: Kršinar meni, da je slaba, za Repovža ustvarja ustrežnejšo obliko vodenja, *Dnevnik*, 19 November 2009, available at <http://www.dnevnik.si/novice/aktualne_zgodbe/1042316450>.

¹¹³ Vlada bo upoštevala predloge novinarjev, *Mladina*, 19 July 2010, available at <http://www.mladina.si/84045/19-07-2010-vlada_bo_upostevala_predloge_novinarjev/?utm_source=dnevnik%2F19%2D07%2D2010%2Dvlada%5Fbo%5Fupostevala%5Fpredloge%5Fnovinarjev%2F&utm_medium=web&utm_campaign=oldLink>.

¹¹⁴ See, for example, Mario BELOVIČ, Novinarji vedo, kaj bi radi?, *Delo*, 26 November 2010, available at <<http://www.delo.si/clanek/130619>>.

¹¹⁵ Državna volilna komisija, Poročilo o izidu glasovanja na referendumu RTV 2005 [State Election Commission, Report on the outcome of the referendum RTV 2005], available at <http://www.dvk.gov.si/REFERENDUM_2005RTV/index.html>.

¹¹⁶ Državna volilna komisija, Poročilo o izidu glasovanja na referendumu RTV 2010 [State Election Commission, Report on the outcome of the referendum RTV 2010], available at <<http://www.dvk.gov.si/RTV2010/index.html>>.

¹¹⁷ SDS deputy Eva Irgl, as quoted in RTV Slovenija Act Defeated in Referendum, 12 December 2010, website of the Government Communication Office, available at <[http://www.ukom.gov.si/en/media_room/newsletter_slovenia_news/news/article/391/2198/2e031bc7d0/?tx_ttnews\[newsletter\]=85](http://www.ukom.gov.si/en/media_room/newsletter_slovenia_news/news/article/391/2198/2e031bc7d0/?tx_ttnews[newsletter]=85)>.

¹¹⁸ Quoted in Politicians Able to Keep Meddling in Broadcaster, *Delo* Says, *STA*, 13 December 2010, available at <<http://www.sta.si/vest.php?s=a&id=1585506>>.

into force on 17 November 2011, reducing the amount of advertising permitted on public service broadcasting, among other things.¹¹⁹

In the meantime, two small parties had left Pahor's coalition during the previous summer, shaving his support in the parliament to 33 out of 90 deputies. The resignation of Katarina Kresal (LDS) as Minister of the Interior in early August further compounded Pahor's problems and eventually, on 21 October, President Türk dissolved parliament, calling for early elections to be held on 4 December 2011. Janez Janša's right-of-center SDS was expected to win, but a new entrant, the left-of-center Lista Zorana Jankovića – *Pozitivna Slovenija* (List of Zoran Janković – Positive Slovenia, LZJ – PS), led by the Mayor of Ljubljana, Zoran Janković – scored an upset victory, garnering 28.51 % of the vote, against 26.19 % for Janša's SDS. Pahor's SD dropped to third place, with only 10.51 % of the votes; four other parties attracted enough votes to win seats in the parliament.¹²⁰ After a short delay, President Türk designated Janković to form a government. However, Janković was only able to muster 42 votes in support of his proposed government in parliament, four short of the minimum necessary. Janez Janša, whose party had placed second in the November elections, was more successful in putting together a coalition and on 10 February 2012 the new Slovenian government led by Janša was confirmed.

Conclusion

The participatory ideal of the media as a vehicle for the inclusion of citizens in active politics – something like a modern “polis”, if one likes – is often an elusive goal. In fact, over the past half a century, something approximating this ideal was achieved in central and southeastern Europe only in the 1980s, during the dying days of socialism. For almost ten years – from roughly the summer of 1980 until the first elections were held in each of these countries – Slovenia, Croatia, Serbia, Poland, Hungary, and Czechoslovakia saw the emergence of an underground press, alongside a parallel society which functioned in a kind of legal limbo.¹²¹ In Poland, it has been estimated that between 50,000 and 70,000 people wrote for the underground press or were involved in its publication and distribution, with an additional 200,000-250,000 providing “logistical

¹¹⁹ Slovenia's New Media Law, *broadcast projects*, 2 January 2012, available at <<http://www.broadcastprojects.com/2012/01/02/new-slovenian-media-law/>>.

¹²⁰ Official election results published, Republic of Slovenia, Government Communication Office, 16 December 2011, available at <[http://www.ukom.gov.si/en/media_room/newsletter_slovenia_news/news/article/391/3207/007eb2e092/?tx_ttnews\[newsletter\]=135](http://www.ukom.gov.si/en/media_room/newsletter_slovenia_news/news/article/391/3207/007eb2e092/?tx_ttnews[newsletter]=135)>.

¹²¹ See H. Gordon SKILLING, *Samizdat and an Independent Society in Central and Eastern Europe*. Columbus/OH 1989; and Sabrina P. RAMET, *Social Currents in Eastern Europe: The Sources and Consequences of the Great Transformation*. Durham/NC 2¹⁹⁹⁵, especially chapters 3-5, 13.

support".¹²² While the political underground was not as large in Czechoslovakia or Hungary, there were important initiatives in these countries as well, including the Charter 77, the Committee for the Unjustly Persecuted, and the Jazz Section in Czechoslovakia; the Budapest School, the Peace Group for Dialogue, the Blue Danube Circle, and the Hungarian Democratic Forum in Hungary.¹²³ In Slovenia, *Radio Student* and the New Social Movements (peace, feminist, gay/lesbian movements) played a role in opening up the public forum, especially in Ljubljana; in addition, in the cultural sector, the *Neue Slowenische Kunst*, including the avant-garde musical group *Laibach*, the Irwin Painting Group and the Red Pilot Theater Group, together with the Borghesia rock group and the punk group *Pankrti* offered music and texts that startled local audiences and opened up the possibility of thinking in new ways. This spirit of innovation also permeated the visual arts, drama, architecture, and even street art such as graffiti. As Aleš Erjavec and Marina Gržinić put it,

"the 'authentic' art of the eighties in Ljubljana was alternative art and culture, or subculture, which demolished the established social schemes and patterns. Subculture penetrated even politics as 'art' and 'culture', and under these guises, corroded and transformed the political status quo."¹²⁴

The cultural sector thus also became a venue for the inclusion and mobilization of the public in Slovenia. In such a setting, when the Yugoslav People's Army decided to put four young Slovenes on trial for having appropriated a top secret military document and decided to conduct the trial in *Serbo-Croatian*, even though the court would be held in Ljubljana, some 40,000 persons protested in Ljubljana's *Trg Osvobodilne Fronte* (Square of the Liberation Front) on 22 June 1988, in what was, in fact, a bold act of collective self-liberation. The weekly magazine of the League of Socialist Youth of Slovenia, *Mladina*, was, by this time, already "liberated" and was behaving more like an opposition magazine than like the organ of an official body of the socialist apparatus.

In distributing shares of stock to the journalists themselves, the intention was to allow the press to continue to function as the underground press had in the 1980s – which is to say, to engage and include the public and bring citizens into the "polis". But, as we have noted above, these shares were acquired by corporate owners in the course of privatization, leading to the transformation of the Slovenian media along commercial lines, in which the media owners have offered the public not, in the first place, the opportunity for engagement in public life, but rather a commodity for purchase. And this, in turn, betrays the fact that the freedom which has been achieved in post-socialist Europe is, in some ways,

¹²² RAMET, *Social Currents in Eastern Europe* (above fn. 121), 86, quoting Roman Dumas.

¹²³ For details and discussion, see *ibid.*, 122-142.

¹²⁴ Aleš ERJAVEC / Marina GRŽINIĆ, *Ljubljana, Ljubljana: The Eighties in Slovene Art and Culture*. Ljubljana 1991, 18.

different from what the anti-communist dissidents and opposition journalists of the 1980s may have imagined. The polis has, indeed, been transformed, and the takeover of the media by shifting coalitions of rival political-economic elites has played a part in this transformation.¹²⁵ We have argued above that media ownership may be used as an instrument for political influence. Indeed, as we have seen, in the case of the agreement between Janša and Šrot, such influence may also be bartered in exchange for economic advantages.

Capitalism, to return to a theme spelled out in the introduction, is usually touted as a guarantee for freedom. But, as our analysis of the Slovenian media-scape has shown, when it comes to the press and to broadcast media, those who are the most free to shape the media and to determine its contents are the media owners, even if they have to rely on journalists to file their reports. Moreover, contrary to some expectations, privatization of the media is no guarantee that these media will be free from political influence and exploitation. Janša's promotion of the 2005 law clearly demonstrates his awareness of and his interest in the political potential of the media, while his arrangement with Šrot showed that even private owners may be ready to grant a government official a role in determining editorial appointments and media content.

As we noted earlier in this article, the media in post-socialist systems has some features in common with media in western Europe, but there are also features which set these media apart. In some cases, media laws in post-socialist societies are simply different from their counterparts in western Europe; in other cases, these laws are roughly the same but are interpreted differently from their West European counterparts. In the Slovenian case, a delay in passing new legislation regulating the broadcast media until 1994 left existing and would-be broadcasters in a legal limbo, and in this period licenses and frequencies were acquired outside of any legal framework. There is no parallel for this in western Europe.

The media in post-socialist societies, including Slovenia, have thus remained somewhat immature. This, in turn, indicates the risk of instability in the media-scape and, for that matter, in the political sphere for years to come. To understand the nexus between politics and the media in the post-socialist societies, ownership, legislation, and the relative novelty of these systems have to be taken into account.

¹²⁵ See Sabrina P. RAMET, Reconfiguring the Polis, Reconceptualizing Rights: Individual Rights and the Irony of History in Central and Southeastern Europe, *Perspectives on European Politics and Society* 10 (2009), n. 1, 87-100.