

MONITORING EU GUIDELINES IN TURKEY

INSTRUMENTS OF POLITICAL PROPAGANDA AND CENSORSHIP

by ASLI TUNÇ

This report briefly assesses independence and transparency of the media regulator and public service media in Turkey in 2014 and early 2015 taking into account the indicators in the Guidelines for EU support to media freedom and media integrity in enlargement countries, 2014–2020.

THIS REPORT WAS PRODUCED IN MAY 2015 by the SEE Media Observatory as a contribution to the 2015 assessment of two results – independent and professional regulators, and public service media – elaborated in the Guidelines for EU support to media freedom and media integrity in enlargement countries, 2014–2020. The content of the assessment follows the indicators included in the EU Guidelines.

INDEPENDENT AND PROFESSIONAL REGULATORS

TRANSPARENCY AND EFFICIENCY OF THE REGULATOR

After the termination of the state monopoly on broadcasting in Turkey in August 1993, the Radio Television Supreme Council (RTÜK) was established by the Radio and Television Law (Law no. 3984) in April 1994, to regulate private broadcasting and to control compliance of broadcasts with legal framework. The RTÜK was made responsible for assigning frequencies and issuing broadcasting permits and licences to private companies. All television and radio broadcasters are under its supervision. The RTÜK is granted with the authority of giving penalties (for breaching the legal framework) to the broadcasters, which may range from warning to the suspension of the TV and radio channels.

According to TESEV Report (2012), policy making in the media in Turkey is a centralized and bureaucratic process where values and priorities are set by the executive. Until mid-2011, the principal executive organ in charge of the media was a Ministry of the State. An executive decree adopted on 17 August 2011, however, now authorizes the Ministry of the EU Affairs to monitor and inspect the activities and transactions of autonomous regulatory agencies including those in charge of media regulation. The independence and impartiality of bureaucratic regulatory agencies have been contested all along in Turkey. Undoubtedly, the agency whose impartiality and autonomy have been most fiercely contested is RTÜK.

**MEDIA
INTEGRITY
MATTERS**



2015
MONITORING REPORTS

RTÜK's independence has been a matter of contention for a long time due to its political composition. The council has nine members elected by the Parliament for a period of six years from a pool of candidates nominated by political parties. The number of nominees proposed by each party is dependent on the number of members it has in the Parliament.

RTÜK is an administrative body with the power to apply fines in proportion to advertising revenue for violations of Turkish broadcasting law, and the power to impose a blackout if specific violations are repeated too often. As a part of crackdown on free media after a corruption scandal was exposed on 17 December 2013, RTÜK, which oversees broadcast media, has fined certain media groups several times and has forced them to publish disclaimers with their reports. Unfortunately, however, the fines and disclaimers that RTÜK imposes are designed to block press freedom and punish those media organizations which disagree with the government. RTÜK also fined broadcasters that showed live footage of the Gezi Park protests, reasoning that it encouraged violence and harmed "the physical, moral and mental development of children and young people." The Justice and Development Party (AKP) has used its effective control of the regulator to control coverage on independent networks.

AUTONOMY OF THE REGULATOR

Though defined in the constitution and its founding law as an autonomous public legal entity, RTÜK lacks the mandate to develop its own principles and the power to regulate. Instead, it is expected to operate within the substantive boundaries drawn by the Parliament and its powers are limited to sanctioning the media.

RTÜK is a member of the European Platform of Regulatory Agencies (EPRA) and participates actively in this network. The Agency has modern premises and is well equipped.

The work of RTÜK is quite transparent even if there is always room for improvement on how to make decisions and processes easily accessible to the public. The government interference with regulator's independence is reflected in the fact that the Parliament appoints its members of the board on the proposal of political parties, and also the agency takes action against the media critical to the government.

The budget submitted to Parliament is first assessed by the Planning and Budget Commission and finalised in a session of the General Assembly in a fiscal plan. The regulator prepares its own budget in accordance with its annual activities and income. In cases where it needs additional funding, the amount required is added to its annual budget document submitted to Parliament. The Turkish Court of Accounts (TCA) audits RTÜK. It is a constitutional body with a judicial power and not subject to administrative or political supervision. TCA is also responsible for auditing, on behalf of Parliament, the revenues, expenditures and property of government offices operated under the general and annexed budgets.

There is no good track-record of the regulator in terms of its independence, transparency and professionalism.

THE REGULATOR'S (RTÜK'S) INDEPENDENCE HAS BEEN A MATTER OF CONTENTION FOR A LONG TIME DUE TO ITS POLITICAL COMPOSITION. THE COUNCIL HAS NINE MEMBERS ELECTED BY THE PARLIAMENT FOR A PERIOD OF SIX YEARS FROM A POOL OF CANDIDATES NOMINATED BY POLITICAL PARTIES.

TRANSPARENCY OF MEDIA OWNERSHIP AND ECONOMIC PERFORMANCE

The combination of lack of transparency and cross-ownership has allowed Turkish authorities to undermine the media ownership structure and alter it to their favour. The president, Recep Tayyip Erdogan has taken maximum advantage of the situation to alter the media ownership structure to his favour, leaving the media landscape without any critical perspective. The majority of media conglomerates in Turkey is controlled by businessmen or groups aligned with Erdogan, and effectively operate as “spokespersons” for the government. Turkey’s media scene has long suffered from a lack of transparency of ownership, which leaves journalists unclear on what is acceptable to write about and citizens unclear on which media outlets to trust. Regulators have no transparent, credible, and accessible annual records on media ownership. Also serving as economic indicators, tenders’ financial reports are opaque and not accessible to public. In 1994, a ban was imposed preventing media owners from participating in public tenders, but it was lifted less than a decade later, after intense lobbying by media groups. A degree of loyalty is also ensured through the distribution of advertising by state-owned companies. The role of public tenders and privatization in maintaining government influence over media cannot be overstated. The prime minister’s office controls billions of dollars in projects per year as the chair of the Privatisation High Council (OİB). In 2012, the government issued 46.2 billion USD worth of contracts, with key holding companies with media outlets eagerly bidding. Billions more are distributed through the Housing Development Administration (TOKİ), also run by the prime minister’s office.

In recent years, these procurement practices have become even less transparent. Between 2012–2014, amendments to procurement law placed tenders in multiple sectors (including defense, security, intelligence, technology, and railways) outside the purview of the watchdog Public Procurement Authority (KİK) responsible for issuing monitoring reports on public tenders. A change buried in the fourth judicial reform package in 2012 also reduced criminal charges for bid rigging in public tenders.

The Court of Accounts, which is in charge of monitoring and reporting to parliament on government spending, was defanged by June 2012 legislation that limited the court’s autonomy to pursue audits. The Constitutional Court overturned the legislation in December 2012, yet the Court of Accounts has been unable to audit public institutions for the last two years and will not be able to do so for at least three more because of an amendment that exempted state institutions from providing account details.

STATE ADVERTISING

The government manipulates the Turkish media by various means. These include using the selective allocation of state advertising. For instance, leading telecom provider Türk Telekom, which is partly owned by the Treasury,

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celebrated its 175th anniversary by taking out eight-page advertisements mostly in 16 pro-government media outlets. However, oppositional newspapers, Zaman, BirGün, Bugün, Cumhuriyet, Meydan, Millet, Milli Gazete, Sözcü, Taraf, Today's Zaman and Yeni Asya were not supported by the funding from the company's advertisements. Nielsen revealed that outlets critical of the government were pushed to the bottom of the list in terms of the amount of ads purchased by state institutions.

Another recent example can be the 2015 general election campaign advertisement of the Turkey's main opposition party, The Republican People's Party's (CHP), being banned from the state broadcaster, TRT. CHP said it had been informed by state broadcaster TRT that it would not show the advertisement on the grounds it directly targeted the ruling Justice and Development Party (AKP). TRT, which is accused of being a government mouthpiece by the opposition, had drawn harsh criticism for favoritism in its coverage of President Recep Tayyip Erdogan during the presidential campaign period ahead of the 2014 elections. The Press Council, an independent professional journalistic association, called on the general manager of the TRT in July 2014 to resign over TRT's apparent favoritism toward Erdogan.

SECTOR ANALYSIS AND MEDIA POLICY

There is no record on public policies' and regulatory proposals' in the media field in Turkey being developed on the basis of sector analysis and no verified audience measurement.

Law no. 6112 on the Establishment of Radio and Television Enterprises and their Media Services, which came into force in February 2011, ensures provision for the public interest with the statement that the main purpose of all media service providers should be to inform, entertain, and educate citizens. However, the law does not provide any statements on the transparency. There has been no public consultation on digitalisation policies and the public remains largely unaware of them. The greatest criticism to Law no. 6112 is that it focuses too much on commercial communication and ignores the public service dimension of the media. Law no. 6112 is rather problematic in terms of defining RTÜK's function as a monitoring and censorship body rather than a "regulator." The law was adopted without the consultation of experts, and sector reports and analyses. This law is not promising in terms of the debates on diversity in media and democratization of broadcasting.

Periodic sector analyses aiming to disclose informal economic pressures on independent reporting have not been conducted by any state body in Turkey and there is no authority in Turkey responsible for this subject.

There has been no privatisation of state-owned media in Turkey.

LAW NO. 6112 IS RATHER PROBLEMATIC IN TERMS OF DEFINING RTÜK'S FUNCTION AS A MONITORING AND CENSORSHIP BODY RATHER THAN A "REGULATOR." THE LAW WAS ADOPTED WITHOUT CONSULTATION OF EXPERTS, AND SECTOR REPORTS AND ANALYSES.

PUBLIC SERVICE MEDIA

INDEPENDENCE OF THE PSB IN LEGISLATION AND IN PRACTICE

TRT, the Turkish Radio and Television Corporation (Türkiye Radyo ve Televizyon Kurumu), had a monopoly until 1990. In 1993, TRT's monopoly position in broadcasting was legally terminated by the addition of a new paragraph to the Article 133 of the Constitution: "Radio stations and television channels shall be freely established by the law." With this amendment, the Constitution not only granted the "plurality /pluralism" and obliged the "authorization" in broadcasting system, but also bestowed "autonomy" as a new indispensable feature to TRT Corporation, which already existed as an "impartial public legal entity".

TRT has 14 TV channels in total among which there are five domestic and three international TV channels, and broadcasts in 38 languages, including Kurdish and Armenian. TRT 1 is a family and entertainment channel; TRT Haber (until 2010 TRT 2) carries news, sports reports, and weather forecasts during the day and serious documentaries, arts programs, and international cinema in the evenings; TRT 3 broadcasts sports events and parliamentary sessions; TRT Çocuk is a children's channel which shares the airwaves with the educational channel TRT 4; and TRT 5 Anadolu broadcasts regional programs. TRT GAP exists to support a major regional development scheme, the South-Eastern Anatolia Project; and TRT 6, launched in January 2009, is a 24-hour Kurdish-language service. The other domestic channels are TRT Müzik (24-hour music), TRT Belgesel (24-hour multilingual tourist-oriented documentaries), TRT HD (high-definition), and TRT 4K (ultra high-definition).

Turkish Radio Television Law (no. 2954) ensures the impartiality of TRT as a "public economic enterprise" with some special provisions.

PSB - A TOOL FOR PROPAGANDA

Although TRT was established as an autonomous corporation in 1964, it has always functioned as a propaganda outlet. TRT's autonomy has also been explicitly undermined by the government's influence over appointments to the board of directors. According to Law no. 6112 on the Establishment of Radio and Television Enterprises and their Media Services, board membership reflects the political parties' presence in the government. This ensures that the most powerful political parties dominate the board's deliberations. TRT is heavily slanted in favor of the party in power and their supporters. No news critical of the government is likely to make it into the news broadcasts. These broadcasts reflect the new ideological status quo, i.e., present a mixture of religion-tinted conservatism, superficial liberalism, and a pragmatic pro-governmental line.

The Radio and Television Supreme Council (RTÜK) issued warnings to TRT for disproportionate coverage of the ruling AKP party during the March local elections in 2014. According to RTÜK, of the total broadcast time from TRT

ALTHOUGH TRT WAS ESTABLISHED AS AN AUTONOMOUS CORPORATION IN 1964, IT HAS ALWAYS FUNCTIONED AS A PROPAGANDA OUTLET. TRT'S AUTONOMY HAS ALSO BEEN EXPLICITLY UNDERMINED BY THE GOVERNMENT'S INFLUENCE OVER APPOINTMENTS TO THE BOARD OF DIRECTORS. THE RADIO AND TELEVISION SUPREME COUNCIL (RTÜK) ISSUED WARNINGS TO TRT FOR DISPROPORTIONATE COVERAGE OF THE RULING AKP PARTY DURING THE LOCAL ELECTIONS IN 2014.

News reports on political rallies, 89.52 per cent (13 hours 32 minutes) was given over to the AKP, 5.29 per cent (48 minutes) to the Nationalist Movement Party (Milliyetçi Hareket Partisi, MHP, 4.96 per cent (45 minutes) to the Republican People's Party (Cumhuriyet Halk Partisi, CHP) and 0.22 per cent (2 minutes) to the Peace and Democracy Party (Barış ve Demokrasi Partisi, BDP. In that respect, TRT violated every aspect of the principle laid out in the Article 5 of the Broadcasting Law on the Establishment of Radio and Television Enterprises and their Media Services (Law no. 6112) that states the corporation is obliged to “produce sufficient broadcasts on subjects of interest to the public in order to enable the healthy and free development of public opinion; produce broadcasts that are impartial; and [the Corporation] should not be used as an instrument for the interests of a political party, group, interest group, belief or idea.” During 2015 general election campaign, TRT has refused to air an election campaign advertisement by the main opposition Republican People's Party (CHP) “because it directly targets the government,” a senior party official said on April 11.

The major weakness of TRT as an institution is party nepotism with its over-staffed structure. The content of many programs, including children's cartoons or educational shows, are conservative and religious in values which can be regarded as a problematic development in terms of the philosophy of public service broadcasting. TRT's financing system and revenues are constantly being questioned because of its permanent endorsement of the official position of the state and/or government on almost any subject.

FINANCIAL AUTONOMY AND SUSTAINABILITY

The Revenues of Turkish Radio Television Corporation Law (no. 3093) determines the provisions for the funding of the public service broadcasting.

State subsidies have been guaranteed for TRT through income received by the Turkish Electricity Distribution Authority (Türkiye Elektrik Dağıtım AŞ, TEDAŞ). Electricity subscribers are charged a tax that goes to TRT and amounts to as much as 2 percent of their electricity bills. The rest of TRT's funding comes from government grants (around 20 percent), with the final 10 percent coming from advertising revenues.

The amount that TRT made in 2013 from taxpayers' electricity bills totaled 800 million TL (approximately 266 million EUR) which is 54 percent of its total annual revenue, according to a report released by the Court of Accounts on 31 December 2014.

RESPECT FOR AUDIENCES

In Turkey there is only the general obligation for TRT to publish an annual broadcasting plan. The TRT broadcasts are out of scope of RTÜK's monitoring.

The Turkish Court of Accounts (Sayıştay), whose task is to monitor and report to the Parliament on government spending, was defanged by June 2012 legislation that limited the court's autonomy. However, the court issued an

THE MAJOR WEAKNESS OF TRT AS AN INSTITUTION IS PARTY NEPOTISM WITH ITS OVERSTAFFED STRUCTURE. THE CONTENT OF MANY PROGRAMS, INCLUDING CHILDREN'S CARTOONS OR EDUCATIONAL SHOWS, ARE CONSERVATIVE AND RELIGIOUS IN VALUES WHICH CAN BE REGARDED AS A PROBLEMATIC DEVELOPMENT IN TERMS OF THE PHILOSOPHY OF PUBLIC SERVICE BROADCASTING.

auditing report on TRT's funding in 2014. The summary of the report has not been distributed to the media; also, the full text is not reachable on the court's official website.

There is an "audience representative" of each TV channel of TRT. Those representatives take complaints from the audience. Additionally, there is a forum page where the public can post their complaints about the contents of the programming. Citizens also use a direct telephone hotline, known as ALO RTÜK 178, to complain to the agency about what they viewed as violations of broadcast content standards. The most common complaint of callers was in reference to "family and moral contents."

Despite the public perception of its pro-government news content and making state propaganda, TRT still ranks as the most reliable news source for the citizens of Turkey in general. But perceptions are polarized according to political partisanship. Supporters of the AKP approved TRT as the most authentic news source, while supporters of the opposition Republican People's Party (Cumhuriyet Halk Partisi, CHP) and Nationalist Movement Party (Milliyetçi Hareket Partisi, MHP) favored private channels in the same line with their political stances.

TRT started test digital broadcasting from Istanbul in 2006. Digital media have given TRT the opportunity to offer its content across multiple platforms including television and radio streaming via its official website. Despite this obvious advantage, with commercialization, public service broadcasting has lost the upper hand in the competitive Turkish broadcasting market. The process of digitizing terrestrial platforms has helped public media to increase their influence over the Turkish audience. Although TRT has lost its former monopolistic power and respectability in terms of offering reliable news content, TRT officials explain that the channel plays a key role in the government's digital switchover plans that have been initially set for March 2015. However the process regarding the Regional and Local Terrestrial Digital TV tender has been suspended in January 2015. Digital switchover plans seem to be delayed until 2020.

This development could have potentially resulted in TRT's more efficient engagement with its audience. However, the channel representatives have not provided any information on anticipated digital services, which epitomizes the organisation's lack of transparency.

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