

RSF's contribution to the public consultation on the public media reform in Poland

The present memo is the contribution of Reporters Without Borders (RSF), an international non-governmental organisation based in Paris and defending the freedom, pluralism and independence of the media, to the [public consultation](#) on the concept of implementation of the European Media Freedom Act (EMFA) into Polish legal order published in June 2024 (thereafter referred to as "the concept").

The contribution follows up on RSF's

- [recommendations](#) on the public broadcasting reform published by the organisation ahead of the October 2023 general election and the [New Deal on Right to Information](#) proposed by RSF ahead of the June 2024 European elections;
- proposals discussed with the leadership of *Telewizja Polska (TVP)* and the Undersecretary of State at the Ministry of Culture at [meetings](#) in Warsaw in July 2024;
- systematic efforts to secure the independence of the public media in Europe which have the potential to guarantee the right to trustworthy information at a time when propaganda and false information proliferate;
- world-wide action struggling for greater independence of the media, as well as for a democratic regulation of the information space through various instruments including the [Journalism Trust Initiative](#) (JTI) and the [International Partnership for Information and Democracy](#) (I&D) which are recognized by the (European Union) EU;
- long-term advocacy in favour of press freedom in Poland, ranked 47th out of 180 countries in the [World Press Freedom Index](#) published by the organisation in 2024, including the promotion of JTI and I&D.

RSF **welcomes the ambition of Poland's current government** to implement the EMFA into the Polish law and the invitation of the organisation - made by the Undersecretary of State at the Ministry of Culture Marta Cienkowska - to contribute to the public consultation on the concept. This is in stark contrast with the practice of the previous ruling majority led by the party Law and Justice (PiS).

While the **implementation of the EMFA** by the EU member states has started, its spirit and the letter are in fact contested by governments of several countries including Hungary or Slovakia. In the face of this backlash, **Poland can become a leader** in defending press freedom in Europe, which will also enhance its credibility abroad, especially ahead of the upcoming Polish Presidency in the EU Council (January-July 2025). Therefore, **RSF calls on Poland to show ambition** in implementing the European legislation and guaranteeing independence of the public media.

RSF has shown **understanding of the need for a decisive and quick non-legislative action** to stop the hate and propaganda spread by the public broadcaster *TVP* as a result of

23 September 2024

its political control by the previous government. But the measures deployed by its successor **do not live up to the European standards** of independence of the public media. *TVP's* leadership has been directly nominated and its funding provided by the government. Although the news coverage of *TVP* and of other public media seems to be more pluralistic, their editorial and financial independence is far from guaranteed.

In the light of the above and in line with article 5 of the EMFA, RSF recommends to adopt a **comprehensive bill on public media** to ensure their independence from political parties, impartiality and internal pluralism, especially through the following measures:

Appointment of leadership of the public media guaranteeing their independence

- In compliance with article 5 of the EMFA, “the head of management and the members of the governing board of public service media providers shall be appointed through a transparent, open and non-discriminatory procedure and on the basis of transparent, objective, non-discriminatory and proportionate criteria.”
- RSF proposes to **enhance the role of the non-governmental, especially journalistic organisations** in the election of the board of directors and of the editors-in-chief of the public media and in their oversight. The civil society organisations with expert background must play a strong role in the election and oversight as a **counterbalance to the power of the National Broadcasting Council (KRRiT)** in the regulation of the public media. Given its election mode stipulated in the constitution, the KRRiT will remain a body under the influence of politicians regardless of the legislative changes. Although KRRiT does not currently have the competence to elect the leadership of the public media, it will again assume this role - at least partially -, according to the concept and to a 2016 decision of the Constitutional Court.

Funding of the public media limiting political influence

- Article 5 of the EMFA states: “Member States shall ensure that public service media providers have adequate and stable financial resources for the fulfilment of their public service mission. Those resources shall be such that editorial independence is safeguarded. Member States shall designate one or more independent authorities or bodies in order to monitor compliance with [the EMFA].”
- RSF insists that the new system of funding must **respect the principles of sufficiency, sustainability and previsibility**. Neither the current, nor the previous mode of public media funding complies with these criteria. Although the licence fee is meant to be one of the major sources of funding of the public media, it is only paid by a fraction of Polish households and the revenues from it are withheld by the KRRiT for political reasons.
- RSF proposes funding of the public media from a **new tax imposed by the Polish state on the digital platforms** - such as social networks and search engines -

23 September 2024

based on the volume of their traffic in Poland. The tax can **complement another source of funding** such as a licence fee, an earmarked tax, or a household charge. Direct funding from the state budget based on short-term decision-making is not compliant with the EMFA and RSF's recommendations.

- An **independent body** should be set up with the aim of **estimating the financial needs of the public media** and hence inform the public and political debate ahead of the procedure of determining the level of funding in the short- and long-term. **Separate from the KRRiT and the public media**, the body would issue expert opinions unbinding either for the government or for the parliament. But if they refuse to follow the body's recommendations, they should provide justification. The "council of the wise" - stretching across political and legislative cycles - should be staffed with **representatives of the civil society and expert community** which should also participate in the election of the body's members.

Editorial independence of the public media

- According to article 5 of the EMFA, "public service media providers shall provide in an impartial manner a plurality of information and opinions to their audiences, in accordance with their public service mission."
- In addition to the measures mentioned above, RSF recommends to incite the public media to **adhere to the most ambitious international benchmarks of journalistic ethics and independence** developed by the organisation, especially to the JTI and the [Paris Charter on Artificial Intelligence and Journalism unveiled](#) in November 2023. Several European public broadcasters, including *France Télévisions* and *SwissInfo.ch*, are JTI-certified.

RSF is ready to assist the Polish government, parliament, civil society, expert community and public media in drafting further and more detailed proposals for the future bill implementing the EMFA.