

[PL] New amendment to the Act on Radio and Television

IRIS 2016-2:1/22

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On 8 January 2016, an amendment to the Act on Radio and Television came into effect immediately after it was signed by the President on 7 January 2016. The draft law was submitted to the Sejm (the lower house of the Polish Parliament) on 28 December 2015. The first reading in the Parliament took place on the following day. The next day, the draft law was referred to the Sejm committee, which accepted it on the same day. The second and the third reading of the Act, and consequently its passing by the Sejm, also occurred on that day. Then the Act was immediately referred to the Senate (the upper house of the Polish Parliament). On 31 December 2015, the Senate declared that it did not propose any amendments to the Act. The Act was then passed to the President for signing.

The Act is referred to as the “minor Media Act” and has a definite term, since Article 4 thereof stipulates that the Act shall expire on 30 June 2016. This is an interim and temporary solution, since the programme of the party which is currently in power assumes that the existing public television and radio companies are to be transformed into institutions of higher public utility, with their governing bodies to be appointed by the Regulatory Authority for a 5-year term of office. Work on a future amendment of the Act on Radio and Television has commenced in the Ministry of Culture. Save for the change of the public media structure, the Act will also regulate the public media financing system as the existing one turned out to be inefficient, and the licence fee collectability rate is at present rather low.

The current amendment includes only four articles: the first one introduces amendments to the Broadcasting Act of 29 December 1992, the second and the third one include interim provisions, and the fourth one pertains to the immediate coming into effect of the Act. As regards the management boards of the public media companies, the amendments in the provisions relate to:

- 1) waiving the competence of the National Council in running the competitions for the positions of members of the public media supervisory boards;
- 2) repealing the provision on the 4-year term of office of the management board’s members;

- 3) introducing the rule according to which it is the Minister of the State Treasury who appoints and dismisses the management board members; and
- 4) repealing the provisions which limit the ability to dismiss the management board members to certain specific premises only.

The previous procedure of appointing the management board members of the public media companies was by way of a competition run by the Supervisory Board, which had been elected by the National Council, with management board term limits. Now, the Minister of the State Treasury gained an unlimited power to appoint and dismiss management board members at any time. The Minister of the State Treasury made use of his new competence on the day the Act came into effect (8 January 2016), appointing a politician connected with the party Law and Justice to the position of chairman of the management board of the public broadcaster Polish Television. He also replaced the composition of the board of the public broadcaster Polish Radio.

Further amendments pertain to the supervisory boards of the public media companies:

- 1) the number of supervisory board members has been limited to three;
- 2) the provisions on appointing supervisory board members and limiting the premises for their dismissal have been repealed;
- 3) the Minister of the State Treasury has been granted power to appoint and dismiss the supervisory board members; and
- 4) the provision on the 5-year term of office of the supervisory board members has been repealed.

The provision that stipulates that any changes to the articles of association of public media companies require the consent of the National Council has been repealed (now there is no need to approve any changes into articles of association by the National Council). Moreover, the management board of Polish Television has been granted the right to appoint the directors of regional offices. (Until now, this power was vested in the supervisory board, acting upon a management board's request.) Another provision of the Act further stipulates that upon the Act coming into effect, the terms of office of the Polish Radio and Polish Television management and supervisory board members shall terminate. Changes adjusting the articles of association of public media companies accordingly to the provisions of the new Act shall be introduced within 30 days from the act coming into force. The current provisions of the articles of association are no longer applicable in practice.

The Act also introduces the possibility to interfere in the individual labour law relations between the public media companies and members of their management boards. As stipulated in the amendment, the relations in question shall terminate upon the moment of appointment of the new management board members. Furthermore, the public media companies will be allowed to terminate the non-competition clauses, by which the existing members of the management board had been bound until now. Under such clauses an employee cannot engage in competitive activities (including employment at competitors) while an employer has to pay compensation to the employee. In this respect, the provisions of the Act shall take precedence over the earlier civil law agreements.

Ustawa z dnia 30 grudnia 2015 r. o zmianie ustawy o radiofonii i telewizji

<http://dziennikustaw.gov.pl/du/2016/25/1>

