

**Strategy Department**

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**Course of action of the National Broadcasting Council with regard to European policy and foreign cooperation for the years 2011-2013**

**Table of contents**

Introduction

I. Strategic objectives of the Council’s international activity

II. Conclusions and suggested courses of action

III. Organisation of the Council’s international activity

Appendix 1

1. Council’s major achievements in the field of international cooperation

2. International organisations and bodies in which the Council participates and works

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**Introduction**

The international activity of the National Broadcasting Council is authorised under Art. 6 section 2 point 9 of the Broadcasting Act. The Council acts here as a representative body of the Republic of Poland under specific relevant powers (in the Council of Europe for instance) or as a technical delegate supporting the Polish Government’s work (in EU bodies for instance) or independently as member of trade organisations (e.g. European Platform of Regulatory Authorities, Central European Regulatory Forum, etc.).

The meaning and role of this activity have been acknowledged in point IV.7 of the Council’s Regulatory Strategy for 2011-2013 adopted in March 2011. This document elaborates on the international activity and provides more details in this respect, it points out the current priorities and the schedule for their achievement by individual tasks.

*In its Regulatory Strategy the Council states that “the international integration process, including in particular the European Union activity, contributes to the fact that the general European standards on freedom of speech and media as well as the course of the public policy and the legal framework for the electronic media activity have been increasingly more often created on a transnational level.* *With the Poland’s accession to the European Union, the manner in which the Polish public media policy had been formulated changed and so did the manner in which the legislation concerning the audiovisual sector used to be adopted”.*

When planning the course of action and objectives of its international activity, the National Broadcasting Council addresses the priorities of the Polish foreign policy, the European audiovisual policy directions and the needs of the Council’s current and long-term activity.

The Council’s international activity develops in two directions:

* Externally oriented activities involving direct participation in the cooperation of the international community at the inter-governmental and sector levels. Those activities include, but are not limited to, cooperation with other ministries and offices in preparing Poland’s standpoints, if required, on matters falling into the Council’s competence, and participation in the work of international organisations, which raises the importance of the Council itself and also of Poland on the international arena;
* Internally oriented activities involving practical utilisation of the knowledge gathered during external international contacts, the aim of which is to support the activity of the Council, the Office and other Polish institutions and to provide knowledge about international regulations and standards, market and technological processes - amongst others by means of providing analyses and study papers.
1. **Strategic objectives of the Council’s international activity**

**Externally oriented activity**

One of most essential objectives of the Council in terms of the joint development and implementation of the European audiovisual policy is to work out the Council’s standpoints and to cooperate with other ministries and offices in the process of preparing Poland’s standpoints in that respect.

The main tasks in this area include:

* Participation in the creation of EU policy and regulations already at the stage of drafting in the EU institutions – e.g. presentation of the Council’s standpoints as part of public consultations in the process of amending the ‘Television without Frontiers’ Directive and developing the Audiovisual Media Services Directive as well as communications from the European Commission (e.g. Communication from the Commission on the application of State aid rules to public service broadcasting (2009/C 257/01));
* Active and independent participation in creating the Council of Europe’s standards in the field of the media and information society, and their application at the national level, as well as participation in establishing the CE’s priorities in the field of the media – e.g. in the context of the Council of Europe’s Ministerial Conferences. Taking part in the work on draft documents sent to the CE’s Committee of Ministers for approval, and in particular on the Recommendation on New Notion of Media and Recommendation on the Public Media Management;
* Active participation in regional organisations involved in media related activities for the purpose of sharing information, experience and to undertake joint activities – for instance knowledge on legal solutions and practice of other regulatory authorities can be useful in preparing drafts of Council’s legal implementing acts;
* Current bilateral cooperation with regulatory authorities particularly in the context of recommendations contained in the Audiovisual Media Services Directive – e.g. the pending working cooperation with the Czech regulatory authority on the complaints concerning so-called “delocalised” broadcasters operating within the Czech jurisdiction but broadcasting their programmes in Polish language into the area of Poland.

Raising the importance of the Council amongst the international society is a major task – also through permanent, competent and active presence of the Council’s representatives in international institutions and organisations. Maintaining the continuity of actions and the institutions’ policy based on acquired experience. Given on one side the importance of the regular presence of experienced Council’s representatives in all those international bodies,

which co-create or provide interpretation of the practical implementation of the public policy and regulations in the electronic media field, it is true on the other side that whenever specialized sessions and conferences are organized we should aim at encouraging a broader participation of employees from relevant departments who would have to meet the technical and language requirements.

The Council should aim to win, where possible, the principal functions for its representatives in the organisations in which the Council participates and works.

**Internally oriented activity**

International activity provides continuous access to unique knowledge, information, materials, statistical yearbooks, legal and thematic bulletins and databases of international organisations that the Council is a member of. This is directly reflected in the Council’s output such as study papers, analyses and publications produced by it, which in turn provides inspiration for the development of Polish solutions. The knowledge acquired during cooperation with foreign partners has a direct impact on the Council’s law making and programme making activity.

The Council operates also as a centre of competence on subjects that it specialises in. The knowledge acquired during international cooperation can be used in contacts with the top State authorities, the public administration, trade and consumer organisations, and is also made available to all interested parties in various forms (publications, website, bulletins, direct mailing). According to the available information, it is also used by academic centres, students and doctoral students as well as the audiovisual market.

**In summary, the Council’s goal should be to sustain and expand proactive presence of the Council at all international activity levels developed so far taking into account changes in the organisations themselves and in their priorities.** **This goal is pursued in practice through the permanent proactive participation of the Council in international organisations and bodies described hereafter in this document.**

1. **Conclusions and suggested courses of action**

The international achievements of the National Broadcasting Council is an important part of its constitutional and statutory tasks. The Council’s international activity is well in line with the priorities of the State policy, which are aimed at reinforcing the international position of Poland. Due to the importance of performing long-term activities on the international arena, the current course should be continued and supplemented by new tasks, which the Council needs to face as a result of the amended Broadcasting Act implementing the Audiovisual Media Services Directive.

When planning the course of action for the next years, the Council should strive to maintain the balance between far-reaching European actions and the cooperation with regional organisations.

**The courses of action that should be continued include:**

* European Union – cooperation at the European level;
* Council of Europe – cooperation at the European and supra-European level (see below the shift in the course of activities by the Council of Europe in the field of the media and information society);
* European Audiovisual Observatory (EAO) – cooperation at the European level;
* European Platform of Regulatory Authorities (EPRA) – cooperation at the European and supra-European level;
* Central European Regulatory Forum (CERF) – regional cooperation;
* European Union Regulatory Authorities Forum – cooperation at the European level;
* International Telecommunication Union (ITU-T) –cooperation at the European level;
* SCCR/WIPO – cooperation at the supra-European level;
* Bilateral cooperation and working liaisons with individual regulatory bodies and other institutions having competence in the field of media services – regional cooperation;
* Participation in international conferences, seminars and initiatives relating to the Council’s statutory competencies – valuable completion of long-term priorities;
* Analytical and information related activity (*Przegląd Międzynarodowy*, Analyses of the Council Office, daily memos and information) concerning the European audiovisual policy and the experience of other countries in the field of electronic media based on liaisons maintained thanks to the international cooperation.
1. **Organisation of the Council’s international activity**

The organisation is described in the Organisation Bylaw of the Office of the National Broadcasting Council and the Travel Instruction. According to the Bylaw, the coordinating and organisational role rests with the Presidential Department, and the Strategy Department fulfils the function of an information centre concerned with the solutions and situation present in other countries.

Common practice is to provide regular information to the Council about international activity, technical matters associated with the work of various organisations and forums and also seeking general instructions from the Council, if necessary, or if work is being conducted on relevant applicable international law acts – detailed instruction on the negotiations.

A more intensive proactive participation of other departments in the international cooperation should be sought through the joint participation in preparing information for foreign partners and personal participation in conferences, seminars and study visits.

**APPENDIX 1**

**Council’s major achievements in the field of international cooperation**

Since the beginning of its existence, the Council has been taking proactive steps on the international arena, both in consultation with the State authorities where top priorities of the Polish foreign policy are on the agenda and also through its independent international policy pursued as part of its statutory competence – as an independent constitutional body having the competence on radio and television broadcasting matters.

At the time of negotiations related to the Poland’s accession to the European Union, the Council acted as partner to the Polish Government and the Central Administration in the consultations held with the EU on Area no. 20 – “culture and audiovisual policy”. The Council has initiated and brought about the Poland’s joining of the MEDIA+ Programme, followed by creation and financing the activity of the Media Desk Polska office. In the years 2002-2004, the Council was implementing a pre-accession PHARE project (a Polish-French twin agreement) concerning changes in the audiovisual policy, which has resulted in publication of the “Green” and “White Book” “Poland’s Policy on the electronic media in the context of the European audiovisual policy – assumptions to the new electronic media act”. It proactively participated in public consultations and hearings organised by the European Commission during creation and amendments of the EU legal acts such as, but not limited to, the Television without Frontiers Directive, the Audiovisual Media Services Directive or Communications from the European Commission on audiovisual matters.

The work of the Council’s representatives participating in various international bodies has been positively evaluated an gained acceptance, which translates to the Poland’s good image

on the international arena. In the years 1993-2011, 9 representatives of the Council and of the Council Office participated in the EU work, and 17 representatives – in the Council of Europe’s work, with a few of them having been appointed to major functions in those institutions. Dr Karol Jakubowicz worked in the Council of Europe as chairman of the Steering Committee on the Media and New Communication Services (CDMM/CDMC), Standing Committee on Transfrontier Television (T-TT) as well as of the Committee of Experts on Media Concentrations and Pluralism. He took part in the work of the Council of Europe’s problem-solving working groups and missions, and he is also author and consultant of a number of the CE’s documents. Bolesław Sulik, while being in the position of the Council Chairman, was the only representative of the candidate countries to the EU and at the same time – member of the High-Level Group of Commissioner Marcelino Oreja (the Wise Men Group) on the Future of the European Audiovisual Policy, and in the years 1997-1999 he was Vice Chairman of the European Platform of Regulatory Authorities (EPRA). In 2004-2006, Izabella Chruślińska (Director at that time of the Department of European Integration and Cooperation with Abroad) was Vice Chairman of the European Platform of Regulatory Authorities (EPRA).

**Bilateral cooperation and working liaisons with individual regulatory authorities and other institutions having competence in the field of media services**

The bilateral cooperation and working liaisons with other regulatory authorities are being developed on an as-needed basis and in line with the current priorities. In the past, the Council cooperated more closely with the regulatory authorities from France, the United Kingdom, Italy, Lithuania, Ukraine, Armenia and Canada. At present, such forums as EPRA and CERF prove to be very helpful in establishing and maintaining this type of liaisons.

Apart from the information exchange in the every-day work, it is purposeful to organise bilateral or multilateral thematic study visits and seminars which will allow for personal contacts and experience sharing between experts, and thus will significantly facilitate any further cooperation with the counterparts in other regulatory authorities, help maintain good mutual relations and build a positive image of the Council abroad.

**International organisations and bodies in which the Council participates and works**

1.European Union:

1. Contact Committee on the Audiovisual Media Services Directive
2. Working Group on European Regulatory Authorities
3. Audiovisual Working Group
4. Working Group on Telecommunications and Information Society
5. Participation in thematic seminars as part of the Presidency in the Council of the European Union
6. The Council of Europe (is undergoing structural changes of its committees and working groups)
7. International specialised organisations and regional cooperation forums:
	1. European Platform of Regulatory Authorities (EPRA);
	2. Central European Regulatory Forum (CERF);
	3. European Audiovisual Observatory;
	4. World Intellectual Property Organisation (SCCR/WIPO);
	5. International Telecommunication Union (ITU-T) – Focus Group on Cloud Computing(people with eyesight impairment and hearing impairment)
8. Bilateral cooperation and working liaisons with individual regulatory bodies and other institutions having competence in the field of media services

**European Union**

As far as the European Union is concerned, the Council actively participates there in the tasks of the working groups and standing committees operating at the Council of the European Union as provided below. As part of the Presidency in the Council of the European Union, the countries holding the Presidency organize thematic seminars on the priorities of the particular presidency, which allow for the additional presence of the National Broadcasting Council in the European policy.

1. **Contact Committee on the Audiovisual Media Services Directive**

The Committee’s objective is to facilitate the implementation of the Directive through regular consultations of the European Commission with Member States on all practical problems resulting from its application and interpretation. The Committee constitutes an information exchange forum for any information on the current situation of the European Commission’s regulatory policy concerning broadcasting services taking into account technical progress, and it also follows up all changes in the sector which could give rise to the information exchange. On the Polish side, the leading institution within this body is the Ministry of Culture and National Heritage; the Council cooperates with the Ministry and participates in the Polish delegation. The meetings are held twice a year in Brussels.

1. **Working Group on European Regulatory Authorities**

Group appointed by the European Commission, consisting of national regulatory bodies for audiovisual media services. It is the only forum within the Council of the European Union established at the regulatory level which allows for a direct discussion and exchange of views with the European Commission. The meetings are aimed at discussing problems with the implementation of audiovisual directives and at cooperation between the European Commission and regulatory authorities – especially with regard to the fulfillment of the directive provisions by the regulators, interpretation of such directives and sharing updated information on any activities taken at the Community level. The meetings are usually held once a year in Brussels.

**c)** **Audiovisual Working Group**

This Group operates under the Presidency of the EU Council. From the Polish side, the leading institution within this body is the Ministry of Culture and National Heritage, with which the National Broadcasting Council cooperates as part of the Polish delegation.

The Group cooperates with the European Commission, and it analyses any proposed amendments to the drafts of the Community legal acts, and it also participates in drafting the Council’s conclusions. Meetings are held according to the schedule defined by the European Commission for the next calendar year. The Council participates in some selected group meetings whenever the major problems directly concerning the National Broadcasting Council’s competencies are discussed.

1. **Working Group on Telecommunications and Information Society**

From the Polish side, the leading institution is the Ministry of Administration and Digitisation, with the National Broadcasting Council as cooperating body. Participation in the Group does not involve the necessary travel to the place of away meetings.

**Council of Europe**

The National Broadcasting Council represents Poland in the Council of Europe in the bodies that are in charge of the electronic media. The National Broadcasting Council fulfils that role independently as it has years-long experience and an established position. Maintaining and continuing this activity is one of the top priorities of the Council’s international activity.

The Council of Europe is in a specific situation now, because since the beginning of 2012 it has been implementing a structural reform necessitated by financial savings and in order to increase its effectiveness. In this way, the number of standing committees and working groups, including their activity scopes, have been reduced. In 2005, at the Poland’s request, the name ‘Steering Committee on the Mass Media’ was changed to the ‘Steering Committee on the Media and New Communication Services’, and this has provided the CE with

the possibility to tackle issues related to information society, which had not been present in its work before. At present, any media related issues will be considered by the Steering Committee on the Media and Information Society (CDMSI) Its activities will be focused on the following issues:

* **human rights** in the context of the freedom of speech and right to information (including freedom of the Internet), management and sustainable development of the Internet, freedom and responsibility of the media, respecting the right to privacy and freedom of correspondence;
* **respect for the law** in the context of protecting the rights of users/audience – including protection of children against abuse (molestation, privacy protection), appropriate utilization of the Internet and other electronic communication means (for instance to counteract violence in the family), choosing the competent court and jurisdiction in the event of a conflict of laws;
* **good management practice** in the context of developing the policy on the Internet, e-Democracy, e-Participation, e-Management, media and internet competence.

Once the new structure, action scope and objectives of the particular committees and groups are finally determined by the Committee of Ministers of the Council of Europe, the National Broadcasting Council will decide in which bodies it is going to participate.

**International specialised organisations and regional cooperation forums**

The Council’s participation in the specialised trade organisations and regional cooperation forums listed below is another priority that should be pursued due to the role that a regulatory body should fulfill as a centre of competence and collecting knowledge about electronic media. Access to information and to practical reliable knowledge offered by those organisations is extremely important in the every-day work of the Council and the Council Office.

**a) European Platform of Regulatory Authorities (EPRA)**

The National Broadcasting Council is a founder member of this organisation (1995). EPRA is an association of 52 regulatory bodies from the electronic media sector from 43 countries and – as observers – also representatives of the European Commission, the Council of Europe and the Representative of the Organisation for Security and Co-operation in Europe on Freedom of the Media. The meetings consist of thematic plenary sessions and of work in working groups on specific problems, which combine all the issues associated with the audiovisual sector.

The Council representatives participate proactively in EPRA meetings and share their knowledge with the Council and with relevant departments of the Council Office. The cooperation within

EPRA constitutes a valuable, effective and credible source of knowledge on the solutions adopted in other countries, both as part of direct personal contacts and through discussion forums on the website and questionnaires and problem-related documents developed by this organisation. Working materials and summaries from the EPRA sessions as well as activity reports of individual regulatory bodies – EPRA members operate as the basis of source materials used for developing documents as well as analyses, studies and internal memos for the Council. EPRA meetings are held twice a year at the invitation of the regulatory member bodies. The National Broadcasting Council will host the EPRA meeting in Poland on 8-10 May 2013 (20th anniversary of the Council).

**b) Central European Regulatory Forum (CERF)**

The Council is one of the signatories of the “Memorandum of Understanding on the cooperation and information exchange” establishing the Central European Regulatory Forum (CERF), signed in Prague in 2009. Apart from the National Broadcasting Council, the CERF members include regulatory authorities from the Czech Republic, Romania, Serbia, Slovakia and Hungary. The understanding is aimed at enhancing the regional cooperation and information exchange in the countries-signatories of the Memorandum, particularly in the context of the Audiovisual Media Services Directive (the Directive recommends close cooperation to the EU Member States of their competent regulatory bodies in all fields coordinated by the Directive, due to the impact that broadcasters established in one Member State may have on another Member State). This is particularly important in a situation where the Council receives complaints concerning channels within for instance the Czech jurisdiction and broadcasting programmes addressed to Polish viewers. In this situation a good cooperation with the Czech regulator is desirable and should be sustained. The CERF meetings take place once a year in one of the member countries. In addition, thematic expert seminars and study visits are organised, on an as-needed basis, (e.g. in April 2011 on monitoring, at the invitation of the Hungarian regulator).

On 15-16 September 2011 another meeting was held in Warsaw at the invitation of the National Broadcasting Council. The subjects included:

* announcements informing about the broadcaster’s own programmes and ancillary products derived from those programmes (Art. 23 section 2 of the AMS Directive);
* monitoring of programmes in the context of the protection of minors, and monitoring of electoral campaigns;
* the problem of so-called “delocalised” channels (enforcement of Art. 3 and 4 of the AMS Directive)
* experience from the digitisation process, dividend, what’s new in digital radio?;
* the ‘must carry/must offer’ rule – a useful tool?
* services for an increased fee in television and radio programmes – the regulator’s role in qualifying those services (ECJ’s ruling: C-195/06).

**c) Forum of the EU Audiovisual Regulatory Authorities**

In May 2011 at the initiative of the Cyprus regulatory authority, a Forum of the European Union Audiovisual Regulatory Authorities was established. In principle, it is supposed to be an organisation which will present joint standpoints of its associated institutions to other international organisations and bodies and the European Union in particular. The initiative has been so far endorsed by: Bulgaria, Cyprus, Czech Republic, France, Greece, Malta, Poland, Portugal, Romania, Slovakia (which did not sign the declaration) and Hungary.

**d) European Audiovisual Observatory (EAO)**

EAO is a European public institution with the status of the Council of Europe’s Partial Agreement, which combines 36 countries and the European Union being represented by the European Commission. Poland is a co-founder of this organisation, and since 1996 it has been represented by the National Broadcasting Council. The objective of the EAO is to collect, analyse and publish information on the audiovisual market. The Organisation keeps a number of valuable databases: MAVISE (channels and television movies), LUMIERE (viewer ratings of films released in European cinemas), KORDA (funding the film and audiovisual sector from public funds) and IRIS-MERLIN (database of legal acts pertaining to the film and audiovisual sector), which constitute an essential source of knowledge on the audiovisual industry. The plenary sessions of the EAO’s Executive Council are held twice a year.

**d) International Telecommunication Union (ITU-T) – Focus Group on Cloud Computing** (people with eyesight impairment and hearing impairment).

The Groups objective is to identify barriers which limit the access of people suffering from such impairments to all kinds of multimedia services, and also at developing and promoting standards and good practice in providing adequate facilities to that group of “excluded” audience. This body combines representatives of organisations of persons suffering from impairments, market regulators, service providers and scientists. The Group has been established for a limited period – until the end of 2012.

Promoting the access to the media of persons with disabilities is a new area of competence for the Council, which has been allocated to it following the implementation of the Audiovisual Media Services Directive.