

General Comment No. 3/2018

on the enforcement of the cultural autonomy of the nationalities in public service media broadcasting

EXECUTIVE SUMMARY

The relation of nationality communities and the media enjoyed a special attention in 2018: the Minority Ombudsman had started a comprehensive study back in 2016 about the enforcement of nationality rights, which was, at the same time, a follow-up review of the ombudsman's media study published in 2004. In the recent years the nationality MP, the nationality advocates and also the representatives of the national self-governments of the nationalities have raised concerns several times about the problems related to the nationality programs in public service media broadcasting. The Minority Ombudsman also received concrete complaints in the context of outsourcing the production of nationality programs and the reorganisation of the studios. Visits in the counties also proved that the local problems connected to nationality media are similar to the ones indicated on national level.

In the framework of the comprehensive study, the Minority Ombudsman compared the present situation with findings of the nationality media study published in 2004 and she also examined in details the actual realisation in these days of the public service media provider's obligations related to the nationalities. In the first phase of the follow-up study, the Minority Ombudsman set up – on the basis of the information received from the national self-governments of the nationalities – the problem-map of public service nationality media broadcasting. Based on the above, she requested written information from the director general of the Media Service Support and Asset-management Fund (MTVA). In the summer of 2017 – in the next phase of the study – she organised a roundtable discussion in the Office of the Commissioner for Fundamental Rights about the enforcement of nationality rights in public service broadcasting for the purpose of exploring the current situation of nationality public service media and to discuss the potential solutions to the problems identified. In addition to the written request, in 2017 and in 2018 she also had personal discussions with the executives of public service media. To place the evaluation of the Hungarian nationality media situation into international context, the Minority Ombudsman reviewed in details the country reports issued by the Advisory Committee of the Council of Europe's Framework Convention for the Protection of National Minorities concerning the findings and the recommendations related to the nationalities' access to media and the enforcement of nationality rights in the media, both in terms of Hungary and the neighbouring countries.

In the General Comment prepared on the basis of the study, the Minority Ombudsman established that the legal regulation of the field is well-developed and the problems and concerns explored in the study are primarily related to the practical implementation of the regulations and to the operation of the institutional system. Actually the special factors related to the character of the media and to the wider social environment are not always taken into account in practice, in particular regarding the scheduling of broadcasting times of nationality programs, the technical accessibility of receiving high quality broadcasting as well as the expressed demands and wishes of the relevant communities. In line with that, the General Comment's focal points are the

coordination and cooperation between the nationality communities and the management of the public service media holding, the media-image formed of the nationalities, the infrastructure, organisation and the financing of nationality media, technical and organic access to nationality programs, as well as the question of the absence of a comprehensive strategic concept of the nationality public service media.

Based on the above, due to the priority importance of the study topic and the necessary potential amendments in the regulation, the Minority Ombudsman recommends that a real dialogue on the merits should be started between the management of the public service media holding and the representative bodies of the nationalities living in Hungary in the interest of reviewing the situation, examining the merits of the problems raised by the nationalities and the discussion of the potential solutions. Furthermore the Parliament's committee of the nationalities living in Hungary should review – with the contribution of the leaders of national self-governments of nationalities and of the involved experts – the present situation related to public service media broadcasting.

Findings:

Public service media play a crucial role in developing the mentality of conscious and well-informed citizens, thus in transferring democratic values based on the fundamental human rights.

It is in particular important in the case of nationality communities to maintain an intermediary tool that can timely reach a wide scale of the majority of the members of the target group, transferring in a barrier-free way the specific information needed for the preservation of cultural patterns and for practical everyday use. It's role is especially important in our country, where the members of nationality communities do not live in single blocks within the country and the messages to be transferred are diverse.

With account to the above, the State has a triple obligation concerning public service media broadcasting – and with its nationality content:

- the legislative bodies should provide the framework of legislation and the guarantees in line with the Fundamental Law and the constitutional traditions of Hungary, and the institutional system responsible for implementing the above should be set up;
- the public service broadcaster of radio and television should grant the professional and high level production of nationality programs in line with the above requirements and professional standards, in close, continuous and constructive cooperation with the affected people;
- the supervisory bodies should guarantee the lawful and professional operation of the institutions and the enforcement of the regulations, by involving the affected persons into the process.

In the year 2004, the media report of the minority ombudsman focused on the lack of adequate legislation and the absence of guarantees. In this respect, there has been a serious development in the past decade: the Hungarian legislation is now in line with the international standards.

The general regulatory framework connected to the media representation of the nationalities is in line with the applicable international requirements and recommendations, indeed, in many respects it provides more than the expected level, therefore the Minority Ombudsman holds that the lawmaker only has to implement some fine-tuning of the system of legal guarantees.

The problems and concerns found and presented in the General Comment are primarily related to the practical implementation of the laws and the operation of the institutional system. The Minority Ombudsman has found that in practice the special factors connected to the nature of the wider social environment are not always taken into account and evaluated, resulting in anomalies concerning the content of minority programs, their broadcasting time schedules, their technical accessibility or the proper channelling of the needs and explicit requests of the relevant communities of the nationalities.

1. Coordination and cooperation

From among the problems and deficiencies found, the most important one is undoubtedly the lack of constructive and real dialogue between the management of the public service media broadcaster and the elected bodies and officials of the nationalities. It is the cornerstone and an important element of all the recommended measures that they should be planned, elaborated and implemented by way of real consultations and cooperation between the Duna Media Service Co., the Media Service Support and Asset-management Fund (MTVA) as well as the national self-governments of the nationalities, their association and the Parliament's committee of the nationalities living in Hungary. Creating effective and successful cooperation between the parties would, in itself, be a significant step towards solving most of the problems.

2. Media image

The public service media broadcaster is obliged to present the members of the nationality communities living in Hungary in a diverse way, transferring the values of such communities.

The communities expressed as a criticism that the relevant magazines provide an ethicising image of the nationalities: they usually present the folk traditions of the communities while they fail to speak about those members of the communities who are active in contemporary arts, science or the public affairs. Concerns may also be raised with respect to the programmes made for the members of the majority society and reinforcing stereotypes instead of presenting the real values of the nationalities. Just as in the commercial media, in public broadcasting, too, only the problems of the nationalities are handled as "news" and they do not present positive content in the adequate extent and proportion. Thus the members of the majority society get a distorted picture of the nationalities and the results and programs of the nationalities do not gain enough space in the media.

The Minority Ombudsman holds that in order to have the contents preferred by the members of the nationalities presented in a more remarkable way in the public service media, it would be indispensable that the representatives of the nationalities express their needs, requirements and expectations explicitly, clearly and in a documented manner towards those who produce the programs, including the management of the public service media broadcasting

holding. This would guarantee the accountability of public service media for the quality of nationality content in their programs.

3. Infrastructure, organisation and financing

The transformation of the public media system started in 2010 had a significant impact on the previous system and practice of producing and broadcasting nationality programs. Although the organisational reform undoubtedly had some positive results in producing nationality programs, the adaptation to the new organisational framework necessarily raised some practical issues that are experienced by the affected minorities as problems.

Due to the elimination and the transformation of the formerly operating regional nationality studios and professional workshops as well as because of the connected layoffs, the staff members are overwhelmed and there is threat that these organisational units gradually turn to “news-producing factories”, although in the past they were real centres of keeping and nurturing the cultural identities of the nationalities concerned. It may imply that the topics of regionalism, the situation and the problems of the countryside and as a whole the aspects of public service might gain less attention.

The reorganisation of production, the closing down of former studios, layoffs and outsourcings cause merging the boundaries of producing TV and radio programs, there are less resources allocated to production, which may necessarily result in too much load on the staff members as well as the decreasing quality of the nationality programs produced.

Although the outsourcing of programs for external companies had, on the one hand, a positive effect of improving the technical conditions of production in many cases (e.g. modern digital equipment, studio equipment etc.), but this does not outweigh the remarkable negative effect that the companies involved in the outsourcing are profit-oriented ones and their primary concern is making money rather than supporting the safeguarding of the cultural identity of the nationality concerned.

In this context, the Minority Ombudsman emphasizes that the operating conditions of the Pécs studio should be significantly improved in the near future as in the long run the present conditions pose a huge risk concerning high quality work.

The indication in a single budgetary line of the resources allocated to nationality public service media in the annual budget of Hungary as well as its independent indication within the budget of the public service media would greatly support the practical implementation of planning, execution and transparency.

4. Technical access and viewing habits

Based on the principle of the need to take into account the special requirements of nationality communities, the complaints by the national self-governments of the nationalities are justified about the unsuitability of the broadcasting time slots of the programs targeting nationality communities. Programs broadcasted in the morning are not accessible by the wide audience, and the repeated changes of broadcasting times does not allow the members of the community to get used to any regular viewing time of the programs targeted to them. The

accessibility of repeated broadcasting on the Duna World channel is again problematic as it is only accessible via cable network or satellite, but not through ground-based broadcasting. Although the accessibility of the programs through the internet is a good technical solution, we need to count on the fact that the members of the primary target group of public service media are the older generations who had been socialised by watching traditional TV channels.

Nationality radio programs are still broadcasted on medium-wave or UHF frequencies that can only be received in unstable quality with the radio sets presently available. Thus the reception of these programs by the target audience is limited due to technical reasons.

The Hungarian audience typically prefers programs broadcasted on the FM frequency. It is not by coincidence that almost all of the Hungarian language public service and commercial radio stations broadcast on the FM frequency. Taking this into account, the broadcasting of nationality programs on medium wave is a negative discrimination of the nationality communities as compared to the rest of the society.

The plans of MTVA for the future may adequately address most of the above concerns: if the inclusion of the program of MR4 Nationality Radio within the multiplex of digital broadcasting means that it will be accessible on FM frequency, this development would be undoubtedly worth welcoming and supporting.

5. The absence of a comprehensive concept

Among the long term and strategic concerns related to the situation of nationality public service media, the lack of a comprehensive concept on nationality public service media is in particular important. Although the management of public service media have showed some degree of readiness to implement a complex approach to nationality content in the media, unfortunately no comprehensive concept have been discussed and elaborated so far in cooperation with the representatives of the minority communities.

According to the Minority Ombudsman, this concept should focus on the following questions and issues:

- a) The nationalities living in Hungary are constituent elements of the State, thus the programs and news of the nationalities should be fitted into the context of the Hungarian society as a whole, rather than presenting them as isolated phenomena or ethnographic curiosities. This approach should be enforced both in the programs produced in nationality languages for the members of the relevant minority communities and also in the general programs targeting the members of the majority society.
- b) Programs produced in the mother tongues of the nationalities are the most important tools of communication in the minority language – securing the preservation of national cultural identity – in addition to speaking within the family and education in the minority language. These programs can only fulfil the above role if they are broadcasted regularly in the same time slot, at the times suitable for the members of the minority community and if they are technically accessible.
- c) A nationality media concept should necessarily address the recognition that the workshops, studios that produce nationality programs fulfil a much more important role

than being only a local radio or TV studio in the countryside. These nationality studios are, in most of the cases, intellectual hubs for the relevant nationality or nationalities that offer a chance for the local and regional intelligentsia to keep and manifest their nationality identity. This is why it is particularly important to secure – in a manner consulted with the elected bodies of the concerned nationalities – the long term, stable and foreseeable conditions of operation of nationality studios and editorial staffs in terms of the materials and personnel.

- d) It is also important to guarantee the further training of nationality program producers and the training of their new generation.
- e) The programs produced by the nationality studios also document phenomena of ethnography, of the mother tongue or of traditions that qualify as last-minute value-saving, thus enriching the Hungarian culture with irreplaceable treasures. However, this treasure-safeguarding role may only be fulfilled by continuously guaranteeing the digital archiving, using the most up-to-date technology, of the nationality programs made in the past years and produced today.

Professional recommendations:

Based on the above, taking into account the primary importance of the topic addressed in the General Comment and the needs as well as the possibilities to amend the relevant regulations, the Minority Ombudsman recommends the following

- 1) Real and substantial dialogue should be started between the management of the public service media broadcasting holdings and the representative bodies of the nationalities living in Hungary for the purpose of providing an overview of the situation, examining the merits of the complaints raised by the nationalities and discussing the potential solutions.
- 2) The Parliament's committee of the nationalities living in Hungary should provide an overview – with the contribution of the heads of national self-governments of the nationalities and of the relevant experts – of the present situation of public service media and
 - a) participate in settling the situation and in the preparation of the changes to be initiated by the executives of public service media broadcasting holdings for the purpose of implementing the General Comment;
 - b) consider initiating the amendment of the Media Act in order to grant special organisational and budgetary independence for the editorial department in charge of the production of nationality programs;
 - c) consider initiating the amendment of the Media Act for the purpose of setting up consultation fora for the dialogue mentioned under section 1 above;
 - d) consider initiating the amendment of the Nationalities Act for the purpose of a more remarkable provision of the independent organisational and budgetary basis of the production of nationality public service media programs (also required under the presently applicable law), with special regard to guaranteeing that the resources allocated to nationality public service media should be indicated in an

independent budgetary line within the relevant title in the Act on the central budget of Hungary;

- e) consider initiating the amendment of the Media Act in order to qualify the Association of National Self-Governments of the Nationalities (ONÖSZ), as a priority delegating body, to have an unconditional delegation right into the Public Service Body.
- 3) The executives of Duna Media Service Nonprofit Zrt. and the Media Service Support and Asset-management Fund (MTVA) should provide an overview – by continuously operating the proposed consultative fora and by taking their opinion and proposals into account – of the present situation of public service media and
- a) elaborate, by involving all affected parties, the comprehensive and long term concept related to providing nationality content in the media;
 - b) implement the measures necessary for maintaining and developing the professional quality of nationality media programs, in particular by providing the optimal level of the material and personal conditions of programme production and by reforming the method of financing;
 - c) prepare a comprehensive survey on the content-related work of the production bases in Pécs and Szeged, and consider the necessary structural reforms that might be necessary on the basis of the survey findings;
 - d) take the necessary steps for creating financial transparency;
 - e) implement the necessary measures to allow for tracing the potential nationality content of all broadcasted programs;
 - f) elaborate an internal quality assurance system to regularly and anonymously monitor the professional satisfaction level of the affected staff members;
 - g) organise regular professional meetings with the participation of the authors of nationality media programs and the representative leaders of the nationalities to discuss the current issues of producing nationality media programs as well as their development concept;
 - h) consider the development of cooperation with the relevant institutions in order to include in the curricula of journalist trainings and further trainings an element on the importance of nationality-related content, equal opportunities and integration;
 - i) promote the takeover and broadcasting of media content from mother countries as well as the dissemination in the mother countries of nationality media content produced in Hungary.