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The capital restrictions in Polish and French media. The selected issues

Abstract

Once in a while there is a discussion in the Polish media about the capital concentration, and especially the content of the foreign capital on our market. At the end of 2016 the new government of the Republic of Poland also took up this topic with the view to returning to work on the restrictions of foreign shareholders in Polish media companies. France was recommended as a model to imitate both in KRRiT analysis of 2015 and the present comparison of Poland to France. The topic of the article concerns thus the answers to the questions: What are the restrictions in Poland and France? What do the differences derive from? Can French media system be uncritically imitated, as it happened in case of many other media situations?

Keywords: capital concentration, Polish media system, French media system.

Ograniczenia kapitałowe w polskich i francuskich mediach. Wybrana problematyka

Streszczenie

Raz na jakiś czas w polskich mediach pojawia się dyskusja na temat koncentracji kapitałowej, a w szczególności udziału kapitału zagranicznego na naszym rynku. Nowy rząd RP pod koniec 2016 roku podjął ten temat, chcąc tym samym powrócić do prac nad ograniczeniem udziałowców zagranicznych w polskich przedsiębiorstwach medialnych. Zarówno w analizie KRRiT z 2015 roku, jak i teraz, porównuje się Polskę do Francji, stawiając tę drugą za wzór do naśladowania. Przedmiotem artykułu będą zatem odpowiedzi na pytania: Jakie są ograniczenia w Polsce i Francji? Z czego wynikają różnice? Czy francuski system medialny można bezkrytycznie naśladować, tak jak w wielu innych sytuacjach dotyczących mediów?

Słowa kluczowe: koncentracja kapitału, system medialny Polski, system medialny Francji.

Introduction

Capital restrictions are an important aspect of the functioning of a media system in any democratic conditions. The aim of the anti-concentric regulations is to maintain media pluralism as a guarantee of freedom of speech. Antitrust regulations or restrictions

on the content of foreign capital in national media are present in almost every media system. The assurance of freedom of speech, and hence the right to information as the basic conditions for the development of democracy, is also recommended by numerous international institutions that issue *hard law* and *soft law* documents which are the basis of regulations of the media market in the field of competition and the capital concentration.¹

In Poland, at the turn of 2016 and 2017 the re-Polonization of the media market was discussed, followed by the anti-concentration regulations debate. The existing capital restrictions, particularly those connected with the foreign capital content on the Polish media market, are neither satisfactory to the government nor to some journalistic circles.² Apart from the political dimension of the event described, voices on the nature of this reform appeared in the discussion. It would mean the implementation of French solutions to the Polish law, which are the most restrictive ones in this respect in the EU.³

The aim of the article is to show big differences in this regard in the French and the Polish legislation. It was assumed that the differences between individual media systems are so big that the success related to copying French solutions in this area is debatable. The media in France are surrounded by a kind of special care and treated as a cultural good and a place of social and political discourse. They are protected at any price and are done not only by the country's authorities, but also by domestic capital groups and journalists themselves. Polish media have developed in different conditions and in a shorter time. During the creation of the basis of the media system, many records were copied without deliberating, but it was also difficult to predict the direction of development. Features resulting from the country's mentality influence the fact that even if the same solutions are used, the effects of their operation in two countries may be different. It would probably be so in the case of Poland and France.

The analysis includes the following elements:

¹ For example, Council of Europe Recommendation Rec (2007) 2 of the Committee of Ministers on Member Countries on media pluralism and the differentiation of the program content of the countries states that [...] *Member countries should consider accepting rules that limit the influence of an individual, company or group on one or more media sectors, as well as providing a sufficient number of various media centers ...* [...]; Or Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 stating that *Member States must counteract any actions that may jeopardize the free movement and commercial exchange of television programs and activities and also actions which are likely to create the dominant position of the broadcaster, that limit pluralism and freedom of broadcasting television information and the entire information exchange sector*; KRRIT, *Legal regulations in the field of radio and television media*, <http://www.krrit.gov.pl/regulacje-prawne/> (access date: 30.04.2019).

² Ps, *Re-Polonization is a political game, it may be against the EU law*, 2017, <http://www.wirtualnemedi.pl/artykul/repolonizacja-mediow-to-gra-polityczna-moze-byc-sprzecznaz-prawem-unijnym> (access date: 30.04.2019).

³ H. Rostek, *Regulations on ownership concentration on the media market in chosen countries*, KRRIT analysis, 2015, <http://www.krrit.gov.pl/krrit/aktualnosci/news,2107,koncentracjauwlasnosci-w-mediach.html> (access date: 30.04.2019).

- The legal status of the French Republic in terms of antitrust restrictions and the presence of foreign capital in the media
- The legal status of Poland in the same scope
- Differences in the development and functioning of both systems
- Forecast on the implementation of regulations.

This article is of systematic, non-legal nature and therefore it concerns only some selected regulations which are relevant to the specificity of the media system. In this respect, the distinctive features of the both systems are significantly different, which makes it difficult to implement the solutions from France to Poland. Except of the use of system analysis, a case study approach was also used. The exemplification was intended to show the specifics how the media work in Poland and France.

The French media system

French media are specific, compared to other media systems, not only within the European Union but also outside. Numerous publications on this topic, and above all the triad of media models described by Daniel Hallin and Paolo Mancini⁴, show that the French media market is not typical and hence it is difficult to classify them and include in any group. There are a number of elements that determine this difference, and the culture and mentality of the people of this country are the most important of all. They determine the shape of the legal regulations, which largely influence the nature of the market. Tradition and culture are a very important part of national identity. The famous *Liberté-Egalité-Fraternité* (Freedom, Equality, Fraternity) dating from the Great French Revolution is the basis for other values declared by the French. Freedom of speech, and consequently freedom of the media result from the interpretation of this slogan and guarantee democracy. In order to carry out these values it is essential to maintain media pluralism in relation to the various aspects of functioning. This polyvalent phenomenon in the sphere of mass communication is the pride of the French nation and is emphasized at every opportunity.

However, it is worth pointing out, that the described qualities are characteristic of many democratic media systems, but in France they arouse special emotions. Any freedom of speech restriction causes social and journalistic objection, particularly when it concerns socio-political issues. The strikes of editors, journalists, or the entire journalistic community⁵ – though rare in other countries – are frequent in France. In 2005, the editorial board of the left-wing daily *Libération* went on strike against Eduardo

⁴ D.C Hallin, P. Mancini, *Comparing Media Systems: Three Models of Media and Politics*, Cambridge University Press, Cambridge 2004.

⁵ It is worth mentioning that the journalistic community (trade unions of journalists) in France are well integrated and their activities in protecting pluralism or defending the rights of journalists bring a positive effect. These actions are particularly visible on the market of the daily national press, which is in crisis and owners undertake numerous reorganization activities (including mass redundancies).

de Rothschild, who held a controlling stake (about 40%). The journalists who at that time held about 20% of the shares themselves did not agree to reorganize their work in the office, both in the field of staff reductions and changes in the program line.⁶ It is also worth mentioning that the principle of journalistic independence is present in the tradition of French journalism, confirmed both by normative acts (Bloch's law⁷) and by the participation of journalists in the ownership structure (sometimes journalists have the possibility to block certain decisions of the main share – holder, for example w *Le Monde*⁸). Not only journalists but also citizens demand the freedom of expression in the French Republic. In the French contemporary media system, there were few such difficult moments for media as the attack on the editorial staff of the satirical magazine *Charlie Hebdo*. This event not only showed the strength of the French media, but also made the international community see how important the freedom of speech and the lack of censorship is for the French. After the event thousands of Parisians came out into the streets and manifested in defence of the freedom of speech⁹, and a pencil – an expression of the unfettered expression and widened criticism in case of the satire – became the symbol of this event.

The concentration rules

As a matter of fact, every person in France can set up a newspaper business and the only limitation of this rule are the antitrust regulations that minimize the threat of monopoly (protection of media pluralism). These principles have been evolving in French legislation since 26 August 1946, when a regulation came into effect.¹⁰ It stated that the publisher could not manage or own more than one title, and could not share the functions of a manager of an information agency, with an advertising agency or with an industrial enterprise. The law of October 23, 1984 defined a limit of 15% of the total daily national press and 15% of the regional newspaper circulation of a single company

⁶ pap, *Czwarty dzień strajku w Liberation*, 2005, <http://www.wirtualnemedial.pl/arttykul/czwarty-dzien-strajku-w-liberation> (access date: 30.04.2019).

⁷ Act of 14 November 2016 with the view to protecting journalistic independence and motivating every editorial board to introduce an ethical card (an agreement between the owner and the representatives of journalists), strengthening the mechanisms of media pluralism, mainly against the pressure of the owners. More: P.Y. Badillo, D. Bourgeois, J.B. Lesourd, *Media Ownership and Concentration in France* [in:] E.M. Noam, *Who Owns the World's Media? Users without a subscription are not able to see the full content*, Oxford University Press, Oxford 2016, p. 80–96.

⁸ This is a form close to the so-called legal institution called the gold controlling shares which belong to the company's founding members. It is an effective protection against hostile takeovers by competitors or forcing the change of program lines by major shareholders.

⁹ Many foreign journalists see the manifestation as a critique of the numerous Muslim communities that live in France.

¹⁰ A. Lancelot, *Les problemes de concentration dans le domaine des medias*, Rapport, Decemeber 2005, <https://www.ladocumentationfrancaise.fr/var/storage/rapports-publics/064000035.pdf> (access date: 16.05.2019).

or 10% of the total circulation of newspapers.¹¹ Contemporary anti-concentration regulations are included in the articles 39, 40 and 41 of the French Audio-visual Act of 1986. They were modified many times, although the biggest changes occurred in 2004 and 2009.¹²

In the sphere of limiting of the ownership of media institutions, numerous limits determining the way they behave were introduced. Most of them concern television, which is still the main source of information in France.¹³ As to terrestrial television, one shareholder may not hold, directly or indirectly, more than 49% of the capital or voting rights of companies licensed to broadcast terrestrial television throughout the country whose average annual reception exceeds 8% of the total television audience rating (Article 39). The legislator also establishes limits on activities in the national and regional or local market, and states that the holder of a national terrestrial television license whose reception exceeds the upper limit of 8% may not directly or indirectly hold more than 33% of the capital or the voting rights in the company which is licensed to broadcast a program that does not have nationwide coverage (Article 39). In the field of daily press, the law of August 1, 1986 forbids one legal or physical person to hold or publish, directly or indirectly, printed daily information (political or general) which coverage exceeds 30% of the nationwide circulation of all such publications in the country.¹⁴

The French legislator has also taken care of restrictions on the content of the foreign capital in the French media. It is worth paying attention to the fact that they only concern radio, television and newspapers. There are no such restrictions in the journal sector, probably due to their relatively minor impact on public opinion. In France, no foreigner¹⁵ who is a natural or legal person can own more than 20% of the capital of a company or voting rights in a company licensed to broadcast terrestrial television or radio signals (Article 40).

A separate group consists of the restrictions on the number of licenses. In case of analogue terrestrial radio, a natural or legal person holding one or more broadcasting licenses may not, directly or indirectly (through other subjects), have access to more than 150 million listeners (Article 41). In addition, the same natural or legal person may not own one or more licenses by which it has the access to the potential customers

¹¹ J.M. Charon, *La presse quotidienne*, La Découverte, Paris 2005, s. 31.

¹² Loi No. 86–1067 z 30.09.1986, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006068930#LEGIARTI000020358296> (access date: 30.04.2019).

¹³ Le Figaro, La télévision, première source d'information de la moitié des Français, 2016, http://tvmag.lefigaro.fr/programme-tv/la-television-premiere-source-d-information-de-la-moitie-des-francais_0fc7ef20-6d37-11e6-ab55-4ea14c0d722b/ (access date: 10.04.2019).

¹⁴ Loi No. 86–897..., *op. cit.*

¹⁵ This regulation does not apply to broadcasters whose capital or voting rights amount to at least 80% to public service broadcasters in Member Countries of the Council of Europe and whose shares in the voting power and public voting of public radio and public television is at least at the level of 20%. Foreigners are considered as natural persons of foreign nationality, companies whose majority capital does not belong, directly or indirectly, to French natural or legal persons as well as associations whose management is of foreign nationality; H. Rostek, *Regulations on ownership concentration...*, *op. cit.*

whose number exceeds 20% of the potential customers gathered collectively by all such public or private radio operators (Article 41). In case of digital television broadcasters without the nationwide coverage, a natural or legal person holding one or more of these licenses cannot obtain a new national license if the new license reaches more than 12 million inhabitants (Article 41). The same article states that if a license is not nationwide, the same natural or legal person may not hold more than one license of that type in the same geographic area. The legislator additionally created a special provision for television on mobile devices specifying that one or more natural or legal persons may not own one or more licenses the potential audience the number of whose reaches more than 20% of the potential audiences gathered by public or private subjects licensed for this type of television 41).

Very important restriction groups for media pluralism protection are those that prevent cross-media concentration from existing in the media (Article 41).¹⁶ In nationwide dimension, no new concession can be granted to a person who meets all the following criteria:

- Holds one or more licenses of terrestrial digital television which geographically reach four million inhabitants.
- Holds one or more radio concessions which reach thirty million inhabitants.
- Is a publisher or controls one or more informative, printed news, the share of which in the national circulation is more than 20%.¹⁷

Similar regulations concern also regional and local media market, where no new concession is granted on a given area, if it does not meet all the following criteria:¹⁸

- Holds one license or more to broadcast digital television (nationwide or not)
- Holds one license or more to distribute radio programs (nationwide or non-nationwide) whose number of the potential recipients on a given area exceeds 10% of the potential recipients of all such stations on a given area.
- Is a publisher or controls at least one daily, printed, nationwide or non-nationwide publication on a given area.

The Polish media system

The contemporary media system in Poland was established only after 1989. Many adopted solutions were copied from countries where the media operated in democratic conditions for at least several dozens of years. Systemic transformation was a very difficult enterprise despite the already existing democratic traditions in the history of Poland. In the field of the media, the main obstacle was the fact that although there were about

¹⁶ N. Toussaint-Desmoulins, *L'économie des médias.*, « Que sais-je ? », 2015, <https://www.cairn.info/l-economie-des-medias—9782130650645.htm> (access date: 10.04.2019).

¹⁷ H. Rostek, *Regulations on ownership concentration...*, *op. cit.*

¹⁸ *Ibidem.*

3,000 titles in 1989, they transmitted the same message¹⁹ because of the censorship and the functioning of one dominant publisher and political supervisor. According to Tomasz Mielczarek, the natural reaction to this state of affairs was the pursuit of media pluralism²⁰, which later resulted in concentration. The change of the current status quo had to be dynamic due to the abolition of censorship and the consequences of this fact.²¹

There were many legal acts that began the process of putting the Polish media system in order. The Act on the Liquidation of the Cooperative Publishing House Prasa-Książka-Ruch of March 22, 1990, the Act on the repeal of the Act on control of publications and shows, the amendment to the Act of Press Law of April 11, 1990, and the Act of Radio Broadcasting of December 29, 1992 became the basic documents constituting the basis of the operation of the new media market.

Apart from the new regulations, the recipients anticipated major changes in the publishing and programming area. Till then market monopoly excluded the media institution competitiveness, and the media censorship led to little initiative and inertia of the editorial formula. It is interesting that 28 years after the abolition of the censorship there is a certain sentiment among the recipients towards the titles similar to those from the Polish People Republic, especially the ones related to the sense of humour of those times, as evidenced by the reactivating of the magazine *Przekrój* in the old publishing formula.²²

The concentration rules

One of the characteristics of the Polish media system is the limited number of media concentration regulations. In other systems, such records are present in the documents regulating the activities of electronic media, acts protecting the rights of consumers or in documents dealing with antitrust law which specify media activities. The Polish regulations do not provide for significant restrictions and are the least restrictive among EU countries.

As Halina Rostek states: while antitrust law refers to the notion of a *dominant market position of a given subject*, the term of media ownership concentration is related to the dominant opinion – forming position of the media company.²³ It should be mentioned that the opinion-forming position is not always equivalent to the dominant market position.

¹⁹ T. Mielczarek, *Monopol, pluralizm, koncentracja. Środki komunikowania masowego w Polsce w latach 1989–2006*, Wydawnictwa Akademickie i Profesjonalne, Warszawa 2007, p. 7.

²⁰ *Ibidem*.

²¹ *Ibidem*, p. 12–55.

²² R. Hetman, *Czy warto kupić reaktywowany „Przekrój”?*, <http://czytamrecenzuje.pl/814/czy-warto-kupic-reaktywowany-przekroj> (access date: 15.05.2019).

²³ H. Rostek, *Regulations on ownership concentration...*, *op. cit.*

In case of the Polish media, two laws that limit the concentration of capital in the media market can be talked about. The first one is the Act on the protection of competition and consumers.²⁴ Paragraph 4 p 10 defines a **dominant position on the market** as *an entrepreneur's position which enables him to prevent effective competition in the relevant market by enabling him to operate to a great extent independently of his competitors, contractors and consumers; It is presumed that the entrepreneur has a dominant position if his market share exceeds 40%*. Stanisław Piątek emphasizes that it may happen under the condition of the relative stabilization of the market share in the long term, although it is possible to indicate a lower share of the market, as well as cases where only 50% of the market contributed to gaining a dominant position on the media market.²⁵ This position is established on the basis of numerous data such as sales figures (size and value), and it also requires an analysis of the economic characteristics of the relevant market by the means of the additional criteria, in this case, the mass media market.²⁶ The other law is frequently mentioned the Act on Broadcasting and Television.²⁷ The antitrust regulations contained in it deal with the granting of licenses for distribution of radio and television broadcasts via terrestrial, satellite or cable networks. In comparison to the French counterpart of this law, the Polish legislator in the field of capital accumulation did not introduce significant restrictions on the media market. There are two articles dealing particularly with this subject matter here and they concern the licensing of broadcasting programs: Art. 36 sec. 2 and Art. 35 sec. 2. The first only states that the concession will not be granted if the dissemination by the applicant could lead to a dominant position in the area of the mass media (the media market as the relevant market). Elzbieta Czarny-Drożdziejko draws out attention to the lack of provisions in the Act concerning the research method of the relevant market on a given territory.²⁸

The other article concerning the capital restrictions deals with the presence of **foreign capital** on the media market. It is worth mentioning that the act on freedom of economic activities is one of the documents regulating the antitrust law in this respect²⁹, but it does not contain special provisions on the functioning of the media, but only defines the concept of a foreigner. It is just its regulations that are referred

²⁴ The Act on the protection of competition and consumers of 16 February 2007 (Dz. U. No. 50, poz. 331 with changes), <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20070500331> (access date: 15.05.2019).

²⁵ S. Piątek, W. Dziomdziora, K. Wojciechowski, *The Act on radio and television. Commentary*, Warszawa 2014, s. 385.

²⁶ *Ibidem*.

²⁷ The Act of 29 December 1992 on radio and television (Dz. U. 1993 No. 7, poz. 34), <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19930070034> (access date: 15.05.2019).

²⁸ E. Czarny-Drożdziejko, *The Act on radio and television. Commentary*, Warszawa 2014, p. 386–387; S. Piątek, W. Dziomdziora, K. Wojciechowski, *The Act on radio and television, op. cit.*, p. 385.

²⁹ The Act of 2 July 2017 on the freedom of economic enterprise (t.j. Dz.U. 2013 r. poz. 672 ze zm.); <http://aktyprawne.poznajpodatki.pl/inne-ustawy/ustawa-o-swobodzie-dzialalnosci-gospodarczej-dz-u-2013-poz-672/> (access date: 15.05.2019).

to in Article 35 of 2 the Broadcasting Act of 29 December 1992. In the view of this article, a concession for a company with foreigners may be granted if:

1. the share of foreigners in the company or the share of foreigners in the share capital of the company does not exceed 49%;
2. the contract or company statute specifies that:
 - a) people authorized to represent or run the company issues or able to members of the management board of the company will be, in the majority, people of Polish citizenship with the permanent residence in Poland,
 - b) in a meeting of shareholders or in a general meeting the share of votes of foreigners and subsidiaries ,as indicated by the Code of Commercial Partnerships and Companies, foreigners' votes may not exceed 49%,
 - c) foreigners cannot directly or indirectly hold more than 49% of votes in a personal trading company,
 - d) the members of the supervisory board of the company will be the majority of people of Polish citizenship with the permanent residence in Poland.

Czarny-Drożdziejko points out that the requirements specified in points a-d must be complied with all together.³⁰ It should also be emphasized that after the accession of Poland to the European Union in 2004, the regulations on foreigners apply to all people from non-European Economic Area. In the scope of freedom of establishment the treaty obligations make it impossible for a member country to discriminate against subjects from other member countries.³¹

The differences in the functioning of both systems in terms of antitrust restrictions

The Polish media system has a low level of anti-trust protection in comparison to France, which tries to protect pluralism in numerous antitrust regulations. These regulations are mainly present in two areas: daily press and television. The most threatened by the monopoly is the television market, so that is why there are so many capital restrictions in this sector (49% of the capital can be held by one person). And there are also restrictions on the daily newspaper market, where one person cannot own more than 30% of all national publications of this type in the country. Existing cross concentration regulations records show that it is difficult for France to own television and newspaper nationwide with broad reception (actual viewership and circulation). The French media system grew in democratic conditions for much longer than the Polish media market, however the limitations in such an antitrust shape emerged only in the 1980s. France of those times was one of the world's major economic powers, strong not only in industry but also in the media industry.

³⁰ E. Czarny-Drożdziejko, *The Act on radio and television...*, *op. cit.*, p. 372.

³¹ *Ibidem*, p. 373.

The Polish legislator, although he modelled largely on French solutions (market regulator, public media structure, mission, etc.), did not follow the French model in this respect. Several factors of a political, but also a social and an economic nature influenced that situation. The market lacked capital, but also some know-how that would ensure the rapid market development without the help of international media companies.

The contemporary media market in Poland is characterized by a high degree of the media concentration, however but not straying away from the average in the EU. This fact, as well as other determinants (e.g. of a political nature) might have contributed to the stagnation of legislative developments in this respect.

However, it should be remembered that there were attempts to amend the broadcasting act on radio and television, in which anti-concentration regulations were to become stricter. Unfortunately, the work on the novel was linked with one of the biggest corruption scandals after 1989. Rywin's affair slowed down the work on the amendment of media concentration regulations in Poland³², and even today, only the introduction of the restrictions on foreign capital is discussed.

The Polish legislator, compared to the French, defines only two situations that affect the accumulation of capital on the market. The first refers to the dominant position of a subject operating on all media markets, setting the boundaries of his operation at 40%. The other one refers only to obtaining the right to broadcast television and radio programs by enterprisers with the foreign capital. In Poland there are no such extensive and numerous records as in France, and the results of *the Media Pluralism Monitor* research confirm that there is a greater threat to media pluralism in the field of the concentration of media companies in Poland³³.

Summary

French legal norms regulating the concentration of capital in the media are often set as a model for imitation. However, it must be pointed out that the 1986 law does not meet the needs of the modern market, especially in the era of digitization³⁴. Politicians announce the work on this regulation, however it will be a huge legislative challenge meeting the opposition from various interest groups. Too many media groups are owned by businessmen, and this poses a huge threat to media pluralism. There are voices

³² T. Mielczarek, *Monopol, pluralizm, koncentracja. Środki komunikowania masowego w Polsce w latach 1989–2006*, Warszawa 2007, p. 35–41.

³³ Media Pluralism Monitor, PFrancja, <http://monitor.cmpf.eu.eu/results-2014/france/> (access date: 15.05.2019), Media Pluralism Monitor, Polska, Francja (2014), <http://monitor.cmpf.eu.eu/mpm2015/results/poland/> (access date: 15.05.2019).

³⁴ J. Cagé, *Sauver les médias. Capitalisme, financement participatif et démocratie*, Le Seui, Paris 2015.

on the part of the French media experts concerning the limitation of the investment opportunities of industry in the media sector in the new act³⁵.

A big challenge for France, but also for the entire European Union market, is the introduction of anti-concentration regulations for the Internet. The current acts and records do not regulate this area. The future of the French media will be a trial of strength between the French politicians who opt for business solutions and the journalistic associations. It is just them that have a huge impact on media reality in France. Their opinions are always taken into account, and the attempts to influence journalists are finished with strikes (very popular in the Parisian press offices).

In Poland, the lack of integration of journalistic communities, and the pathologies that devour them in the form of strong polarization and politicization, make journalism increasingly resemble *media working*. The Polish journalists do not give their opinions on the issues relevant to the functioning of the market or if they do their voice is neglected. It should also be mentioned that the awareness of Poles on the risks of concentration of capital on the market, and consequently its influence on the content of the publication is little. Lev Rywin's affair did not cause social protests, as it happened in case of the attempts to manipulate journalists in *the Liberation* or *iTélé* newspaper. To some extent, such a low interest may result from the low consumption of opinion-forming media by the Polish, whereas in France politics, economics and, consequently, the media are very popular topics.

However, taking the imperfections of French regulations into consideration, and particularly the fact that the French native media depend on business, which is linked to the main political forces in the country³⁶, it is worth considering the following and copying of the French solutions. It should be remembered that the dependence on native media companies can also be a big threat to the freedom of speech, which is reflected in the low position of France in the Reporters Without Borders ranking among other democratic counties (Reporters Without Borders, 2016)³⁷.

Copying French solutions can not only turn out to be unprofitable, but impossible. First, the re-Polonization of the media in the view of the EU legislation is difficult to carry out and can only be limited by the introduction of anti-trust regulations with the cross-sectorial character.³⁸ Secondly, every regulation introduced cannot be retrograde, so the actions of the Polish legislator after the amendment would concern

³⁵ S. Rolland, *La concentration actuelle des médias pose un vrai problème démocratique*, 2015, <http://www.latribune.fr/technos-medias/medias/la-concentration-actuelle-des-medias-pose-un-vrai-probleme-democratique-julia-cage-502772.html> (access date: 15.05.2019).

³⁶ K. Gajlewicz-Korab, K. Konarska, M. Palczewski, *Conclusions on national media market protection on the basis of the IS report about France and Germany*, 2017, <http://instytutstaszica.org/2017/03/18/wnioski-dotyczace-ochrony-krajowych-rynkow-medialnych-na-podstawie-raportu-is-o-francji-i-niemczech/> (access date: 10.04.2019).

³⁷ In recent years France has ranked in the top ten of the countries, while Poland ranked second in the next top ten, Reporters Without Borders, <https://rsf.org/> (access date: 15.05.2019).

³⁸ Large international media companies operating in Poland would have to limit their activities by reducing their shares in one of the sectors. It would however concern both the native and European capital.

only the future investors (Pallus, 2016).³⁹ Although the anti-concentration laws in both countries are very different, they are largely used not by pluralism and by citizens but by politicians and other pressure groups.

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³⁹ However, Barbara Babula, the deputy of the PiS, admitted that various options are being considered, including statutory extortion of the media if the publisher has too much market share; P. Pallus, *Repolonizacja i ograniczenia koncentracji mediów*. <https://businessinsider.com.pl/media/repolonizacja-i-antykoncepcja-mediow-wedlug-pis/sfurcgw>.

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