



Political Journalism under Pressure Between Autonomy and Dependence

Günther Pallaver
Theo Hug

Dieser Beitrag befasst sich mit der zunehmenden Tendenz politischer Eliten, auf die journalistische Berichterstattung und den politischen Journalismus Einfluss zu nehmen. Dabei wird gezeigt, inwieweit dadurch Handlungsspielräume im politischen Journalismus eingeschränkt werden. Untersucht werden insgesamt vier Länder, nämlich die USA, die Bundesrepublik Deutschland, Österreich und Italien. Beim diesem Vergleich stellt sich die Frage nach der Bedeutung struktureller Unterschiede angesichts der verschiedenen politischen Systeme in den untersuchten Ländern (z. B. präsidentielles vs. parlamentarische Systeme, parteien- vs. medienzentrierte Systeme). Abschließend geht es um Überlegungen zu unterschiedlichen privatrechtlich organisierten oder dualen Mediensystemen im

Zusammenhang strategischer Einflussnahmen und Abwehrmaßnahmen.

In this paper the proposition to be tested is whether the political elites' attempt to exert influence on day-to-day news coverage and thus on political journalism is increasing and whether as a result political journalism's autonomous leeway is continually diminishing. The countries examined are the United States, Germany, Austria and Italy. In this context the question whether there are structural differences due to the diverse political systems of the countries under consideration (presidential vs. parliamentary systems; systems centred more on parties vs. systems centred more on the media) will also be investigated. Last but not least, the role of different media systems will be considered, too (media under private law, dual systems including the Italian version).

1. Introduction

Over the past decades political journalism has undergone a considerable transformative process. Not only does this process operate sensitively at the crossroads of the political communication system but it also moves between the news public and the political elites – both of whom have different demands on political journalism – as well as between publishers and editors-in-chief who demand specific contributions from their journalists in order to compete effectively with other media (Blumler & Gurevitch, 1995; Conboy, 2004; Deuze, 2005).[1]

In addition, production factors such as time and resources are running short, the autonomous leeway in the media itself is narrowing, and the pressure from news management, event marketing and spin control is increasing (Bennet & Livingston, 2003). These results go well together with the results of the strategy reports on important developments in the newspaper industry globally which have been published by the World Association of Newspapers (WAN) in 2006.[2] These six strategy reports from the Shaping the Future of the Newspaper project deal with new revenue models, outsourcing, digital classifieds, new editorial concepts, advertising science and new pricing strategies, all acting as elements of regional, national and transnational network strategies. For example, the report on "New Editorial Concepts" (2006) examines several trends that are influencing newsrooms everywhere: The explosion of participative journalism, or community-generated content; The rise of audience research by media companies to learn new patterns of media usage; The proliferation of personalized news delivered online and on mobile devices; The reorganization of newsrooms optimized for audience focus; The development of new forms of storytelling geared toward new audiences and new channels; The growth of audience-focused news judgment and multimedia news judgment.

These trends affect the modes in which journalists report the news in various ways. And even if we agree that the precarious labor situation also opens up new markets and chances for journalists, it becomes obvious that especially political journalists are subject to constant pressure (Plasser, Lengauer, & Meixner, 2004).

The processes of structural transformation have led to a situation in which the editorial (political) outlook of political elites has changed. There is now also an ever increasing marked shift from decisional policies to presentational ones (Sarcinelli, 2009).

These processes of transformation and trends in media-centered democracies are discussed in various ways in academia: critical journalism vs. PR journalism, cooperative vs. conflictive journalism, production teams comprising politics, PR and journalism, meta-

journalism, etc. (cf. Donsbach, 2008). At the same time, journalism has a variety of methods for reacting to the increasing influence exerted by politics (Achtner, 1996; Jarren & Donges, 2002; Swanson, 2003; Esser, Reinemann & Fan, 2001).

In this discussion, methods of *strategic influence* stand opposite methods of *strategic defense measures*: On the one hand are strategies applied by political elites to influence journalistic reporting for their own purposes. On the other hand are counterstrategies^[3] applied in journalism to resist this exertion of influence. The study also requires a look at *institutional* or *governmental influences*.

This means political-regulatory measures which allow the political elites to narrow the journalistic scope for action. Such measures have different justifications (e.g. public safety) and are put in various concrete forms (e.g. laws). Ultimately they represent the selective restriction of journalistic work, thus the limitation of journalistic autonomy and the freedom of the press.

The following remarks examine this subject on the basis of isolated cases and advance the view that media-centered democracies have a creeping tendency to restrict the autonomy of journalists via the exertion of governmental-institutional influence. The study looks at three European countries, namely Italy, Austria and Germany, and at the United States.

2. Models for the relationship between politics and media, and basic political-institutional conditions

Hallin and Mancini (2008) differentiate three models for the relationship between politics and media in western media democracies and assign the analyzed countries to the three categories. In their view, the *Northern European or Democratic Corporatist Model* includes Austria, Germany, Switzerland, Belgium, the Netherlands, Denmark, Finland, Sweden and Norway. The *Mediterranean or Polarized Pluralist Model* applies to Italy, France, Greece, Portugal and Spain. The *North Atlantic or Liberal Model* covers the United States, Canada, Great Britain and Ireland.

The two authors compare these countries within the framework of their three models regarding the characteristics of their political and media systems and base their comparison on four criteria: Development of the communication market in special consideration of the dissemination degree of print media; Political parallelism, i.e. the intensity and type of relation between media and political parties in view of the most significant social fault lines; Development of journalistic professionalism; Intensity and type of state intervention in the communication system (Hallin & Mancini 2008, p. 23; cf. also Pfetsch & Maurer, 2008).

In the *Mediterranean or Polarized Pluralist Model*, the media system is characterized by a low reach of print media, a strong focus on electronic media, a high degree of political parallelism resulting from the

management of public television companies by parliament or government, weak journalistic professionalization and instrumentalization, and strong intervention by the state. The political system is marked by polarized pluralism, a high significance of the parties, strong state influence on the economy, and a distinct welfare state.

In regard to the media system, the *Northern European or Democratic Corporatist Model* shows above all a high reach of print media, a decrease of political parallelism with increasing media autonomy, high professionalization of journalists, and strong state influence on the media system while the freedom of the press is protected. The political system is moderately pluralistic and strongly resembles concordance democracy. Moreover, it is marked by a consistent welfare state including tendencies toward the political regulation of economic activities.

The media system in the *North Atlantic or Liberal Model* is based on an average reach of the press, a strong focus on television, a highly distinctive autonomy of professional informational journalism, as well as commercial organization and deregulation. The political system in this model is characterized by moderate pluralism, competitive democracy, strong liberalism with little state influence on the economy, and a poorly developed welfare state (Hallin & Mancini 2008, pp. 62-63).

Before our analysis, we want to briefly outline two striking characteristics of the studied countries: the role of television as the most important source of information, and the political system.

In the countries we reviewed, there is a trend toward the commercialization of the media but with significant differences (cf. Thomaß, 2007). While the market in the United States is commercial and deregulated, and public television plays only a marginal role, public broadcasting is still in the lead in Europe, even though its market share is declining. In spite of all the differences among the European countries studied here, the dual system is prevalent.

As for political parallelism, Italy shows the closest relationship between politics and television (politics-over-broadcasting system), while in the

United States we find the greatest distance (professional model of broadcasting governance). Germany and Austria lie in the middle (politics-in-broadcasting system; cf. Hallin & Mancini, 2008).

Differences also prevail on the level of political, party and voting systems. The United States represents the prototype of a presidential system with a two-party system. Italy, Germany and Austria are, regardless of the differences, still party-centered parliamentary systems which belong to the category of moderate pluralism (Pelinka & Rosenberger, 2007; Schmidt, 2007). In the past, Italy was considered polarized (Sartori, 1976), but today it is on the road from a fragmentedly bipolar to a moderately pluralistic party system (Chiaramonte & Di Virgilio, 2006).

In the United States, elections are based on a relative majority voting system that centers on the candidates. The European countries predominantly have party-centered proportional representation systems in different variations (barring clauses, majority bonus, direct votes, etc.).

In regard to its media system, the state can be analyzed in his roles as owner, regulating actor, and financier. This comparative study focuses on the state as regulator while regarding its role as owner whenever it seems necessary in order to explain regulatory aspects.

3. The role of the state and its political influence on journalism

a. Federal Republic of Germany

According to Hallin and Mancini (2008), partly because of the negative experiences coming out of National Socialism, Germany is among those

countries characterized by quite articulate legislation in support of the freedom of the press, but at the same time also by a relatively high level of media regulation. For instance, there are specific rules against neo-Nazi propaganda and racial hatred, concerning the access of parties to public radio and television stations during election campaigns, etc. The public service broadcasters are controlled by the respective federal states, which is meant to strengthen the external pluralism. The board of directors is usually assembled in a politically pluralistic way in conjunction with socially relevant groups (e.g. unions, churches). This applies not only to the public service broadcasters but also to the majority of private-commercial companies. However, the state played a highly dominant part up until the 1980s and 1990s. The constitutional court has repeatedly intervened in favor of media independence and against excessive political infringement and influence on the part of the states and the federation (Hallin & Mancini, 2008, pp. 144-154; cf. also Kopper & Mancini, 2003, pp. 109-130).

The state influence on the freedom of the press has increased with the onset of the 21st century in the context of the fight against international terrorism. The culmination of this development was the passage of the "Law

on the Defense against the Dangers of International Terrorism" (Anti-Terror Law), which became effective on January 1, 2009. Among other things, this law allows members of the Federal Criminal Police Office (BKA) to encroach on the professional secrecy of doctors, lawyers and journalists. Their telephones may be tapped, bugging devices and video surveillance installed in the homes of suspects, and their private computers spied on by means of Trojan viruses which are sent via e-mail or the internet. To be sure, members of the BKA need authorization by a judge and by the BKA president, but in urgent cases this requirement is waived. This part of the legislation caused major conflict among the German parties.

The law thus permits a multitude of secret investigative measures even in the absence of concrete grounds for suspicion for the purpose of

preventing (terrorist) crimes. An aggravating factor is that the legal provisions also apply to occupational groups whose confidentiality is protected in the code of criminal procedure by the right to refuse to give evidence. This means that doctors do not have to testify against their patients, nor lawyers against their clients, nor journalists against their informants. This right is eroded by the new law (Prantl, 2009).

The so-called BKA Act is the preliminary peak of German security policy, which began with the measures against the Red Army Faction (RAF) and found its continuation in the legislation adopted after the attacks of September 11. The surveillance options were gradually expanded, the respective methods refined, and the number of offenses which according to the law permit the installation of bugging devices (for instance in the editorial offices of newspapers) increased. German journalists regard the BKA Act as an attack on the freedom of the press as protected by Germany's Basic Law because it violates the professional secrecy of journalists and results in the intimidation of investigative journalism (cf. Usi, 2008; Reporter ohne Grenzen, 2008).

A decision by the federal constitutional court from 2003 jeopardizes investigative journalism as well. It establishes that law enforcement agencies are entitled to monitor the telephone connections of journalists when tracking criminal actions "of considerable importance," with the latter phrase remaining undefined. Even though in individual cases the investigating judge needs to deliberate about whether to give precedence to the freedom of the press or the demands of law enforcement, this decision is a sign of the gradual tendency to restrict the protection of sources and thus also the freedom of the press (Reporter ohne Grenzen, 2003). On the other hand, in 2003 the regional court in Braunschweig, in utter contrast to the federal constitutional court, declared the tapping of journalists' phones unlawful.

The erosion of a number of rights which protect the work of journalists started even before the BKA Act. In 2006 the Freedom of Information Act came into effect. It gives each citizen the right to inspect the work of public authorities, thus facilitating journalistic research. However, even

though this consolidated the freedom of the press, several individual cases have shown this freedom to be undermined. Even a year earlier there had been instances where editorial offices were searched and journalists spied on by the Federal Intelligence Service BND.

The Cicero affair is considered to be the most blatant case in point since the Spiegel affair in 1962. In the fall of 2005, officers of the Federal Criminal Police Office BKA searched the apartment of a journalist and confiscated files, tapes, computers and address directories. The reason for the search: In his portrait about the terrorist Abu Musab al-Zarqawi, the journalist had quoted from a secret BKA dossier and published information about al-Zarqawi's connections to Iran. The investigating officials justified their actions by claiming the journalist was "aiding and abetting the betrayal of secrets," even though the authorities did not find any incriminating documents (Metz, 2006).

Between 1987 and 2000, Germany saw 150 cases of surveillance, searching and confiscation in regard to journalists. Not a single journalist was proven to have committed a criminal action. In the opinion of journalist associations, this tendency has increased over the past years, which is why they have repeatedly called for strengthening the protection of information (Metz, 2006).

In 2007, the federal constitutional court decided in favor of the magazine Cicero and ruled the policy of search and confiscation in the course of preliminary investigations against members of the press unconstitutional if it serves solely or predominantly the purpose of obtaining the identity of informants. The decision was regarded as boosting the freedom of the press, though journalists in Germany can still incur a penalty for the publication of secret documents if the investigating judge "sees positive evidence for the existence of the publication of a secret that was intended by the secret carrier and which the journalist can aid and abet." The German press council sees an urgent need for action in this regard (Spoo, 2008, pp. 87-88).

Apart from the Cicero affair, the year 2006 brought more cases where the BND monitored e-mail communications (of the magazines *Spiegel* and

Stern, the television channel ZDF, and the *Financial Times Deutschland*). The observations were primarily aimed at journalists who had investigated the activities of the intelligence service (Reporters without borders, 2007).

Apart from legal regulations and, to some extent, the decisions of the federal constitutional court, the “war against terror” has brought about increased political pressure on critical journalists. To oppose critical coverage on the war in former Yugoslavia, for example, political pressure on a journalist working for the ARD was so strong that, before long, he apologized for his critical analyses (Spoo, 2002, pp. 99-105). The same kind of pressure was exerted on the confirmation of the editor-in-chief at the ZDF who took a critical and independent line (Ulrich, 2009).

b. Austria

Like Germany, Austria is among those countries within the *Northern European or Democratic Corporatist Model* in which the media are more decidedly regulated. This pertains not only to issues of the media system such as the strong presence of the state in public service broadcasting, the legal liberalization of the media market and the promotion of cross-media concentration (Kaltenbrunner & Fallend 2006, p. 333), but also to the access of political parties to public media and generally the rules concerning campaign practices in the media context.

The Austrian Broadcasting Corporation ORF, the national public service broadcaster, still holds a special position in Austria, after having had a monopoly in the area of electronic media for decades. Only Austria’s looming conviction by the European Court of Human Rights in the early 1990s led to the passage of the Regional Radio Act in 1993 and the Cable and Satellite Broadcasting Act in 1997, which ended the television monopoly. Nevertheless, the ORF was able to maintain its virtual monopoly in the area of political information services (Plasser & Ulram, 2004, p. 63). Additional characteristics are the high press concentration (compared to other European countries) and the above-average market dominance of one daily newspaper (Seethaler & Melischek, 2006).

Like the other member countries, Austria is forced to implement within its territory the guidelines of the European Union regarding the fight against terrorism. On the basis of these requirements, Austria has begun the process of reforming its security police law, which enables the police to monitor e-mail and telephone communications and/or retain personal data. As a result of a simple police inquiry, internet and telephone providers are thus obliged to release private data and IP addresses of their clients without awaiting a judge's decision. In contrast to Germany, these legislative measures have not caused a major debate about the potential restriction of the freedom of the press (Reporter ohne Grenzen, 2009).

The most intense discussion was about the political influence on the public service broadcaster ORF, which, also because of being anchored in the individual provinces, is largely considered to be a political "Proporzrundfunk," i.e. a broadcaster based on proportional political representation, which is illustrated by its supervisory board, called the "Stiftungsrat." Among other things, this panel appoints all high officials, approves the budget and controls the financial conduct. Of the thirty-five members, fifteen are appointed by the federal government, six of which in consideration of the proportional strength of the political parties represented in parliament. Furthermore, each province nominates a representative (for a total of nine), six members are chosen by the Viewers' and Listeners' Council, five by the ORF's Workers' Council (ORF-Kundendienst, 2009).

During the coalition governments between the conservative People's Party (ÖVP) and the right-wing populist Freedom Party (FPÖ, later BZÖ) between 2000 and 2007, the political influence on the ORF became enormous. Already in 2001, journalists at the ORF referred to the exertion of pressure and attempts at intimidation and interference, and they warned against the loss of independence of the ORF. Political interventions limited the interior pluralism at the ORF, achieved the broadcasting of self-serving courtesy shows and thus violated journalistic standards in a blatant manner.

In 2001, Reporters without Borders criticized the increasing censorship and self-censorship and the constraints on the freedom of the press in Austria. In 2006, the criticism by ORF journalists (Wolf, 2006) resulted in the formation of the "SOS-ORF" initiative, a citizens' group attempting to change the political circumstances and demanding the ORF comply with its public service mandate (derFreiRaum, 2006).

Against the will of the governing majority, the ORF management was replaced in 2006, leading to a significant decline in political pressure on the editorial staff (Wolf 2007). However, the governing parties left nothing undone to influence the editorial line by means of the politically appointed supervisory board (SOS-ORF, 2007).

Under the new 2008 SPÖ/ÖVP coalition government, the recently gained independence again became more of a target for regulation (Wolf, 2008). In view of the discussion about a new "ORF law," journalists at the ORF strongly rejected all attempts at using the broadcaster's current financial crisis as a reason to subject it to increased party control (APA, 2009). They demanded political independence (less influence by government and parties, no direct or indirect decisional authority for the federal chancellor, objective evidence of qualification for executives), economic independence and high-quality programming (SOS ORF, 2009).

c. Italy

In the countries attributed to the *Mediterranean or Polarized Pluralist Model*, the state has always had an important role, which is the consequence of a certain authoritarian political culture and, at the same time, the democratic tradition of an existing welfare state (cf. Kopper & Mancini, 2003, pp. 93-108). And yet, state control sometimes lags behind this ambition because the financial means and political consensus are often lacking (cf. Hallin & Mancini 2008, p. 107). In Italy, the media are considered to be social institutions which can be regulated for the purpose of public interest. This applies in particular to political coverage and the rules during election campaigns (e.g. *par conditio*, release of survey results, etc.; cf. Bettinelli, 1995; Cuperlo, 2004).

The Italian print media have always been characterized by their political affiliations. The public service broadcaster RAI has all along been subjected to proportional political representation and heavy political influence. Deregulation only came as of 1976, after the Italian constitutional court ended the RAI's national monopoly. Until 1990, the "wild" years prevailed due to the absence of laws regulating commercial television broadcasters (Achtner, 1996).

In those licentious times, the Italian broadcasting system and its advertising market were revolutionized. This led to the rise of Silvio Berlusconi, who, thanks to his relations to Prime Minister Bettino Craxi (1983-1986), seized the opportunity to legally protect and expand his market-dominant position (Mazzoleni & Vigevani, 2005, p. 193). The foundation of his personal party, Forza Italia, in 1994, based on his business ventures, as well as his meteoric political rise rested solely on his media empire.

The current television market has two main players, the state-owned RAI with three national TV channels, and Berlusconi's private media company, Mediaset, with three national networks as well (and additional print media). Due to the duopolistic system, the two basically divide the advertising market among themselves. Other television providers like channel La 7 are only marginally important.

The European Parliament, the European Council and other international institutions which advocate pluralism and freedom of information have responded with a series of warnings and calls urging Italy to resolve the anomaly represented by its media system. The European Council pointed out the negative effects of the "concentration of political, commercial and media power in Italy in the hands of one person," called attention to shortcomings in the independence of public service television, and showed concern about the freedom and pluralism of media in Italy (Mazzoleni & Vigevani, 2005, p. 195).

The Berlusconi government reacted by passing legislation concerning the conflict of interest which regulated everything but Berlusconi's conflict of

interest. Although the prime minister ceded the management of his empire to other family members, the independence of the editorial offices at his television broadcasters and print media is not guaranteed as long as he remains the principal stockholder of Fininvest and thus of Mediaset.

As prime minister, Berlusconi has broadened his influence on public television while still informally in control of his own television media (Mazzoleni, 2003). Following his request, several critical journalists (Enzo Biagi, Michele Santoro, Marco Travaglio) were laid off or marginalized by the RAI. Massive attacks and intimidations directed against critical journalists are commonplace under the Berlusconi government and affect not just the RAI but also print media (Ulrich, 2009a, p. 1).

The editor-in-chief of the *Corriere della Sera*, the most influential Italian daily paper, had to resign in 2003 because of his critical reporting on Berlusconi's trials. Italian journalists continue to be a preferred target of criminal charges, which compromises their criticism of the government's performance. And when it is not possible to control the flow of information or buy the media, Berlusconi as the wealthiest person in Italy and his staff have at their disposal the information media, economic resources and vast number of lawyers it takes to muzzle inconvenient journalists (Lane, 2005, p. 207). That lesson also applies to star journalists working for Berlusconi's television companies (Mentana, 2009). In addition, the number of police inspections of editorial offices and private homes of journalists has sharply increased over the past years (Lane, 2005, p. 206).

Beside the severe attacks on journalists, the government influence has a massive impact on the reporting. Television broadcasters display anticipatory obedience and manipulate the news coverage to go with the prime minister's agenda. For instance, Italians watching the evening news saw Berlusconi address a full UN General Assembly. In reality, Berlusconi had talked in front of a sparse crowd, but the RAI had added archive footage (Giordano, 2003). Alternatively, news regarding the prime minister is simply suppressed when it is about his trials, his (sex) scandals, poor

election results, or strikes at one of his television companies (Bongi, 2009, p. 3; Dipollina, 2009, p. 7). Furthermore, the distribution of airtime on Italian networks (with few exceptions) is highly asymmetrical, favoring the government and putting the opposition at a disadvantage (r.pol., 2009, p. 3). The protest and resignation of several members of the RAI board of directors in reaction to the political interventions by Berlusconi came to nothing.

During the center-right coalition governments (1994-1995; 2001-2006; since 2008), a whole range of measures was introduced to shape the media system in favor of Berlusconi's media. Among them is the so-called Gasparri Act which was passed in December 2003 in order to reorganize the Italian media system. Thereby Berlusconi bypassed antitrust regulations by the constitutional court which would have forced one of his channels to be broadcast via satellite. Moreover, the government provided Berlusconi with 130 million Euros in public money to subsidize consumer purchase of digital decoders which were distributed by Berlusconi's brother (Valentini, 2005, p. 18).

President Ciampi had sent the Gasparri bill back to parliament since he thought it did not guarantee the pluralism of information and impaired advertising in print media (De Marchis, 2003, p. 22). After minor modifications, the law came into effect in 2004, ensuring the unlimited expansion of Berlusconi's television companies on the advertising market as well as his economic involvement in the print media sector, which under the old regulations was possible only to a very limited degree (Cordero, 2004, p. 16). Above all, Berlusconi awards his TV networks with institutional advertising (Lopapa, 2009, p. 9).

The picture becomes even more complicated because the competences for controlling the RAI are divided up among a parliamentary control commission, the ministry of communication and the competition authority. Starting a few years ago, the regions have also been granted certain control functions. In spite of all this, the members of the RAI board of directors, the editors-in-chief, directors of programming and other

important officials are nowadays designated in Berlusconi's home (De Marchis, 2009, p. 2; Bartocci, 2009, p. 2-3).

At the beginning of 2009, parliament was about to vote on a bill which journalists have called a "muzzle law." Since judicially approved wiretapping of Berlusconi's phone calls unveiled patronage, behind-the-door agreements, and political blueprints, the prime minister instructed the parliamentary majority to pass a law that would eliminate such legal options. Among other things, investigating judges are severely limited in their use of such methods (with the exception of investigations against the mafia), while journalists are prohibited to publish tapped conversations in their entirety or in summary form. The sentence for publishing such information anyway is up to thirty days in prison, which may be cumulated with a fine of up to 5,000 Euros. The publication of wiretap transcripts that have been ordered to be destroyed may now lead to a prison sentence between six and twelve months (D'Avanzo, 2009, p. 9).

In a mutual appeal to parliament by journalists and editors called "Duty to information - Right to knowledge," the FIEG (Federazione Italiana Editori Giornali) and FNSI (Federazione Nazionale della Stampa Italiana) protested against the restriction of the right to reporting and the disproportionate penalties at the expense of journalists and editors (FIEG/FNSI, 2009). It is not only due to this law, soon to become effective, that Italy is identified as a country with significant democratic deficits, which are mainly attributed to the lack of both media pluralism and freedom of the press (Ginsborg, 2003). Not without good reason was Italy ranked 44th on the Press Freedom Index 2008 (Reporters without borders, 2008).

d. United States

In standard liberal democracies, the role of the state is rather limited compared to the role of the market and the private sector. The same logic applies to the development of the media in the *North Atlantic or Liberal Model*. Nevertheless, even in the United States the function of the state cannot be ignored, for example in regard to the transparency of ownership structures, cartel issues, press concentration, or the right of

journalists to protect their confidential sources. The dominance of the private over the public sector is particularly evident in the American television market, which did not see the introduction of (to this day) weak public television until 1967. Nevertheless, beginning in the 1980s, the operating conditions for American television were increasingly regulated (license renewal, fairness doctrine, consideration of public interests, etc.), resulting in a trend toward neutral and pluralistic reporting. The 1990s brought a reversal of this regulative approach and, for instance, the granting of licenses as a mere formality, the abandonment of the fairness doctrine, and using the market logic as the only yardstick (Hallin & Mancini, 2008, pp. 204-206). And yet, the state has (informally) relatively strong influence on the media industry by determining its rules of operation. It is not by chance that there is a consistent flow of money from the media industry to political players (Lewis, 2000; Chomsky, 2006, p. 141).

The close relationship between media and state comes to the fore whenever national security issues are concerned. In the past, a result of the "culture of national security" was that politics and the media moved in lockstep to pursue the "national" interest even without formal regulations, and that in this context the political pressure on the media was occasionally stronger than, for instance, in European countries with a different political culture (Newton & Artingstall, 1994).

This (formal and informal) pressure on the media has significantly increased since legislation like the Use of Force Resolution (September 14, 2001) or the USA Patriot Act (Providing Appropriate Tools Required to Intercept and Obstruct Terrorism, October 26, 2001)[4] were passed in reaction to the attacks on the World Trade Center in New York and the Pentagon in Washington, D.C. on September 11, 2001 (Dadge, 2004). The new measures served the purpose of simplifying investigations by federal agencies in case of a terrorist threat, restricting civil rights under the pretext of national security. Among other things, the right of the FBI to wiretap conversations was broadened considerably. The responsible judge needs to be informed of the surveillance but at the same time must

authorize it. Telephone and internet providers must disclose customer data (Patriot Act, 2001). In practice, this means that investigators may collect e-mail addresses and the date and time of e-mail communications of suspicious persons. Electronic communications are treated in the same way as telephone communications. The content and length of such communications may be recorded and used as evidence. When "electronic crimes" go through American lines, US authorities are entitled to take appropriate action at home and abroad. The FBI uses software called Magic Lantern to decode and decipher all protected data on individual computers and thus allows a look at the entire content of the "captured" devices. Another method called Carnivore intercepts e-mail and decodes its content, which does not require judicial authorization anymore. Since 2004, several federal courts have ruled unconstitutional those provisions of the USA Patriot Act which concern house searching and phone tapping without judicial order or initial grounds for suspicion.

Right from the beginning, the measures to fight terrorism resulted in partly voluntary, partly imposed restrictions on the freedom of the press. One example is the silent agreement among many media to avoid overly critical reporting on political actions such as the antiterror legislation, in keeping with the political culture of national security. The explicit cue was given by the executive branch when Condoleezza Rice, national security advisor under President Bush, convened the most important editors to remind them of their "responsibility" concerning information in times of crisis. Moreover, President Bush, with reference to national security, instructed his cabinet members in early October 2001 to stop passing on certain information to members of Congress, although it would have been vital for the latter in order to execute their mandate. Bush's action was prompted by the fear that some of the information might be leaked to the press (AG Friedensforschung, 2002). This new kind of reporting had a strong impact on public opinion and thus greatly facilitated the Iraq war, for example, because the population was provided with one-sided information. Regardless of that, President Bush's press secretary warned the press in a show on CNN: "You better watch what you say" („Sie passen besser auf, was Sie sagen") (Vidal, 2004, p. 16). The intimidation of the

media became the norm in the years after 2001, and journalists increasingly practiced self-censorship (Dennett, 2004, p. 32). Nevertheless, renowned daily papers adhered to investigative journalism and contributed to publicizing the abuse of power by authorities in the “war against terror” (cf. Werhan, 2008).

Journalists who did not comply with the new security logic felt the blow of politics. Peter Arnett, famous star reporter for NBC News (the network is owned by General Electric, a military supplier) was fired after he had told on Baghdad television that the original US war plan had failed (Chomsky, 2006, p. 38). Measures of this kind aimed at domestic and foreign journalists (Ospina, 2009).

In the first year after the passage of the Patriot Act, the United States dropped in the ranking of Reporters without Borders to 17th place among 139 countries included in the list, even behind Costa Rica. The reason for this result was the imprisonment of several journalists for refusing to reveal their sources in court or allegedly violating security requirements implemented after September 11 (Kulick, 2002). Reporters without Borders viewed this as a threat to an important pillar of press freedom in the United States.

One of the most familiar among the many cases in which the freedom of the press was disregarded and journalists were imprisoned for contempt of court regarded Judith Miller of the prestigious *New York Times*, who was sentenced to prison because of her refusal to identify her confidential source. Reporters without Borders sparked a worldwide protest campaign and pointed out that the protection of sources is an important principle of journalism and that the current conditions would render investigative reporting like in the Watergate scandal impossible (ngo-online, 2005).

Miller had refused to disclose her informants for an explosive story about which official in the Bush administration had uncovered Valerie Plame, the wife of former US ambassador Joseph Wilson, as a CIA agent. Wilson had been a harsh critic of the president on the issue of the Iraq war. Journalist Matthew Cooper from *Time* magazine, who also faced imprisonment for contempt of court, had evaded it only because his

informant explicitly consented to the disclosure of his identity. The case of Judith Miller had caused severe protests (cf. Baden, 2005).

It was not only the practice of purposefully imprisoning journalists for contempt of court that caused fears for the freedom of the press in the United States, but more generally the massive intimidation campaigns against media the administration disliked. Among the latter was the *New York Times*, which in President Bush's second term revealed several spying activities by the White House. The reporting did not just lead to a Pulitzer Prize but also to allegations by Bush and other administration officials that the paper aided the terrorists and thus caused serious damage to the United States. There were even calls to indict the *New York Times* on the basis of anti-espionage legislation. On the other hand, hundreds of government records were sealed under the authority of the security doctrine, among them information about arrests and criminal cases and, in general, many questionable operations by the administration (Pitzke, 2006; cf. also Kleinsteuber, 2003).

The passage of the Free Flow of Information Act in 2008 brought new rules for the right of journalists to protect their sources but largely subjected it to the administration's security requirements (cf. Reporters without borders, 2008).

A collateral restriction of the freedom of the press and the freedom of information was embedded journalism, which was introduced in 2003 when the Iraq war started. It is regarded as a new form of military-controlled war propaganda, especially since in some cases the journalists are themselves members of the armed forces. The journalists' information is filtered by the military, and the reports may be censored (Dennett, 2004, p. 37).

4. Comparison and Summary

In their analytical study of communication systems, Hallin and Mancini present four criteria for comparison, the fourth of which concerns the intensity and kind of state intervention in the communication system (2008, p. 23). According to their analysis, state intervention in the media

system is lowest in the *North Atlantic or Liberal Model* and highest in the *Mediterranean or Polarized Pluralist Model*, with the *Northern European or Democratic Corporatist Model* approximately in the middle.

Based on these empirically supported differences, we argued at the outset of this article that in the media-centered democracies we studied, namely Germany, Austria, Italy and the United States, there is a creeping tendency toward restricting the autonomy of journalists by means of formal and informal state and institutional influence and thereby curtailing the freedom of the press.

The analysis of the four countries permits a number of conclusions which substantially confirm our argument. To point out a few details:

- In all four countries, a historical cesura – the terrorist attacks in New York and Washington on September 11, 2001 – was the starting point for the trend toward new restrictive measures by the state in the media sector. Freimut Duve, OSCE representative on Freedom of the Media, commented on this cesura: “Shortly after September 11, the rule of law ended in the United States and in Europe” (qtd. in Ramonet 2001, 6, FN13).
- In the United States, this restrictive course is represented by the Patriot Act, in Europe, by the antiterror measures of the European Union (Europäische Union 2002, 2009) which every member country must implement within its territory.
- In all countries, “public security” was the rationale behind a number of constraints on the media of an informal (pressure on journalists) as well as formal nature (e.g. legal measures). However, there were variations in the public perception and subjective concernment of the journalists as well as their reaction to these restrictive measures which give security precedence over freedom of the media. In countries such as Austria this is rarely seen as a problem but very much so in the United States.
- Hallin and Mancini’s ranking of the intensity and type of state intervention in the media system was established in 2001 and requires slight revisions. As the Media Freedom Index (Fig. 1) shows, in 2008 the United States placed third among the four countries of our study (36th overall) but still ahead of Italy (44th). Germany and especially Austria are near the top of the field in 20th and 14th place respectively.

Table 1: Media Freedom Index

	2002	2003	2004	2005	2006	2007	2008
Germany	7	8	11	18	23	20	20
Austria	26	16	17	16	16	16	14
Italy	40	53	39	42	40	35	44
USA	17	31	22	44	53	48	36

Source: Reporters without borders. Press Freedom Index 2002-2008

- From this it can be concluded that the evaluation of the influence on media freedom in these four countries depends neither on the political system, nor the voting system, nor the party system, but on the national political culture which is embodied by the particular government.
- It is striking that all countries with stronger restrictions on the freedom of the media (political-economic pressure, legal provisions, etc.) were governed by conservative right-wing parties at the time when the various security measures were approved. In the United States, it was under President George W. Bush (2001-2009), in Italy, under Silvio Berlusconi (1994/95; 2001-2006; since 2008). The same trend could temporarily be noticed in Austria during the coalition government between People's Party (ÖVP) and Freedom Party (FPÖ) under Chancellor Wolfgang Schüssel (2000). It was less evident in Germany (1998-2005: SPD and Greens; since 2005: CDU-CSU and SPD). In Italy, this peculiarity is accompanied by the anomaly that the owner of the biggest television provider is also prime minister and, in that function, has strong influence on the public service broadcaster RAI.
- Finally, it is noticeable that monitoring and controlling the new electronic media, above all the internet, has caused especially strong reactions because it affects the "professional privacy" of journalists.

In our opinion, the significance of institutional and state intervention should not be underestimated, and not merely due to the lasting impact of the legal regulations. There are several other reasons why these interventions need to be taken quite seriously: First, because this kind of influence occurs subtly and gradually and its effects are not recognized as such by a large number of recipients. Second, because in the corresponding processes of their legitimation, reasons are blurred with pseudo-reasons (rationalizations). Third, because in the process, the

emotional side tends to follow a “politics of emotion (“Politik der Gefühle”; Haslinger, 2001), and unconscious dynamics are seldom caught up with in a reflexive manner. Fourth, because paradox effects are easily misjudged, for example in the aspect that the realization of institutional regulations itself follows those modalities of staging events in the media which suggest closeness yet, upon closer inspection, represent distance and control. Accordingly, the modalities of dealing with closeness and distance in those communication processes which become significant in the context of state interventions, also suggest new forms of proximity management for journalism. Finally, the amplifying effects should not be underestimated either: When we consider for instance that processes of inter- and intra-institutional news coherence run parallel to the dynamics of media concentration and media convergence (cf. Schudson, 2003, p. 109), it is obvious to assume that these processes tend to not only be stabilized but also amplified in the course of state interventions.

On the other hand, these results are not meant to hide the fact that limitations to state influence need to be considered as well. In view of the complex dynamics of media change (cf. Rusch, 2007; 2008), it is unlikely that the effects the state desires of the measures are permanently stable.

5. References

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[2] See <http://www.wan-press.org/> or <http://www.wan-press.org/rubrique49.html>

[3] Most recently, counterstrategies are also emerging in connection with open content and open source developments (cf. <http://publicmarkup.org/>).

[4] In March 2006 the so-called sunset clauses of the USA Patriot Act, which were due to expire in 2005, were made permanent. In August 2007 Congress passed the "Protect America Act of 2007" at the instigation of George W. Bush, which allows bypassing the FISA (*Foreign Intelligence Surveillance Act of 1978*) in regard to surveillance (internet, telephone, etc.). In 2008 Congress additionally approved the "FISA Amendments Act of 2008." All these laws follow the USA Patriot Act. In 2009 more sunset clauses are due to expire. In 2004 a federal judge had declared parts of the law unconstitutional (cf. Wieser, 2008).