

# Public media reform in Poland – a political takeover?

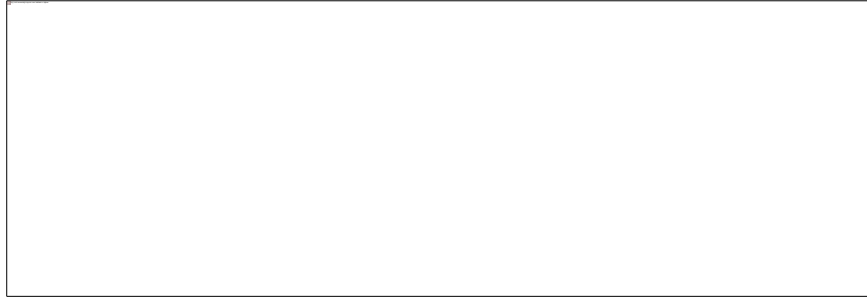
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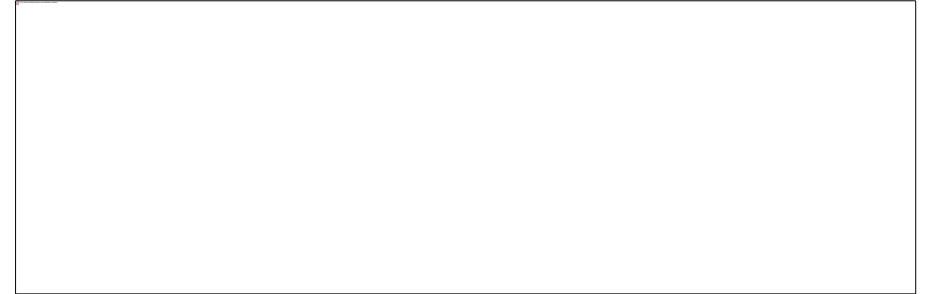
# Agenda

- **Overview of the public media reform in Poland**
- **„Small media law amendment”**
  - Legislative process
  - Main changes
- **Consequences of the new legal framework**
  - Dismissals
  - Impact on the content
  - Viewer and listener ratings
  - Reaction of the international community
- **Follow up. What is coming next?**

# Organisation of public media in Poland

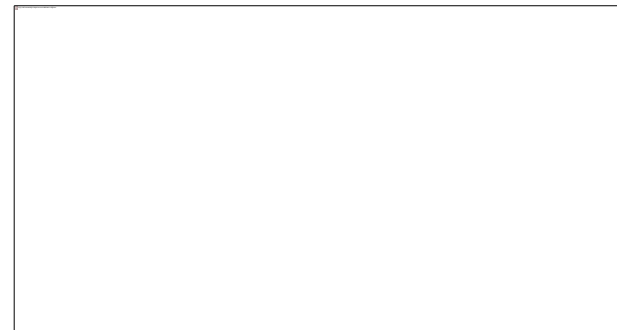


Public TV, including nationwide general channels, thematic channels, regional channels



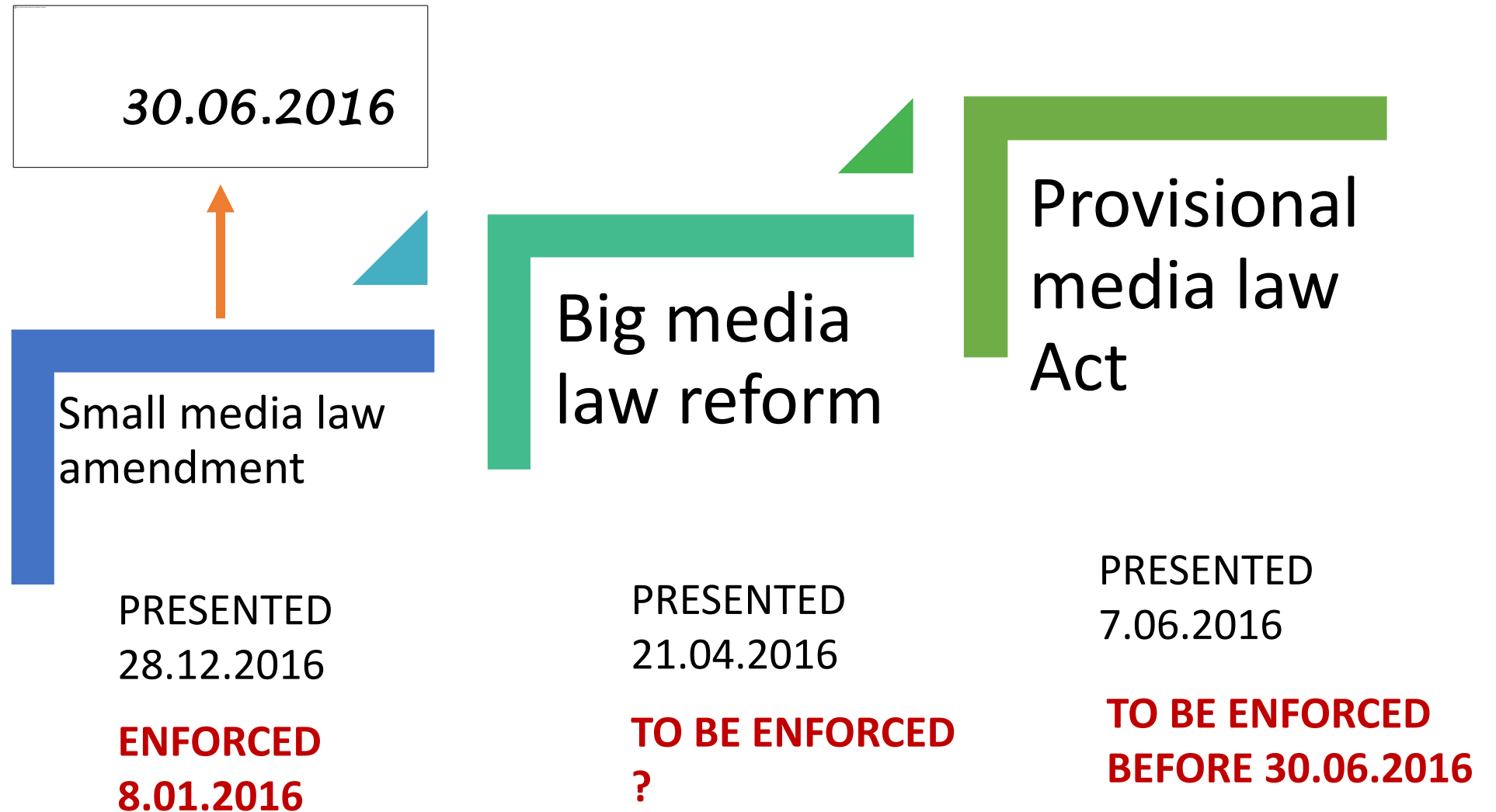
Nationwide radiostation (general channels) + 17 regional radiostations

Soon also the Polish Press Agency?



# Public media law reform in Poland

## - overview (3 steps)



**2015**

# Small media amendment - legislative process

- 28 December** Submitted to the Parliament
- 29 December** 1st reading in Sejm (lower chamber)
- 30 December** 2nd reading
- 30 December** 3rd reading – adopted by Sejm
- 31 December** Adopted by Senat (higher chamber)

**2016**

- 7 January** Signed by the President and published in the Journal of Laws
- 8 January** Entered into force

# „Small media law amendment”



## changed rules for selecting public media authorities

- The new law abolished the requirement to elect public media authorities in open and transparent competitions, as well as the requirement of engaging different stakeholders in the process of elections. Before the process of elections was organised or supervised by the National Broadcasting Council (a constitutional body whose competences in this respect were therefore limited by the new act).
- Now it is up to the discretionary decision of the **Minister of Treasury** to appoint the members of public media authorities (members of management and supervisory boards). There are no precise criteria for the selection process and no provisions enabling the public opinion to control it.
- The new law removed also guarantees of stability and independence for members of public media authorities. Before the reform they held their functions for a specific period of time and could be dismissed only in exceptional, precisely defined circumstances. These guarantees have been abolished as well. The Minister can now freely dismiss the authorities of public media, at any time, basically for whatever reason.
- As of the Act's entry into force, the members of management and supervisory boards of nationwide public media were removed from office (without any prior evaluation of their performance).

# The HFHR's assessment of the small media law amendment

- The public media reform is not likely to empower democratic control over public media and their pluralism but instead it will most likely lead to their complete dependency from the government. They are much more likely to become a tool of political debate now, practically incapable of fulfilling their “public watchdog” role.
- It is true that previous governments took attempts to take control over public media but their influence was limited due to certain measures of protection safeguarding political independence that now have been now abolished.
- As consequence the authorities of public media of will be more likely chosen for political, rather than competency, reasons.
- The public media reform contradicts with European standards established within both the EU and CoE legal frameworks (in particular the Venice Commission acquis).

✓ In March 2016, the Commissioner for Human Rights (Ombudsman) submitted a motion to the Constitutional Tribunal upon verifying the constitutionality of the provisions of this Act with the Constitution.

# Consequences of the new legal framework – public media staff shuffle

**90** journalists dismissed

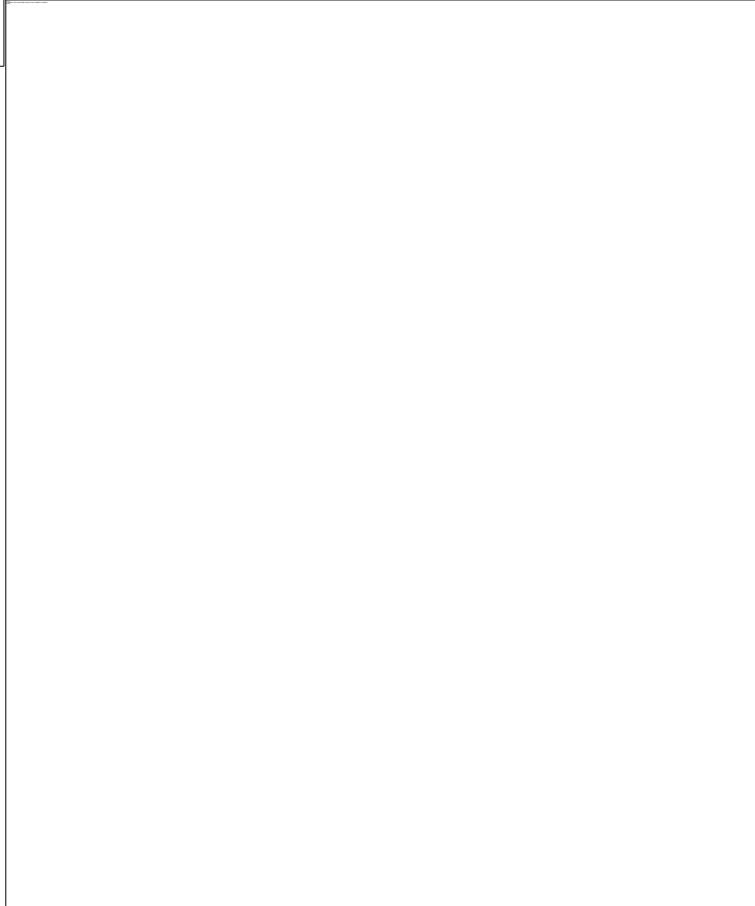
**41** decided to leave

**32** journalists lost their post or programme

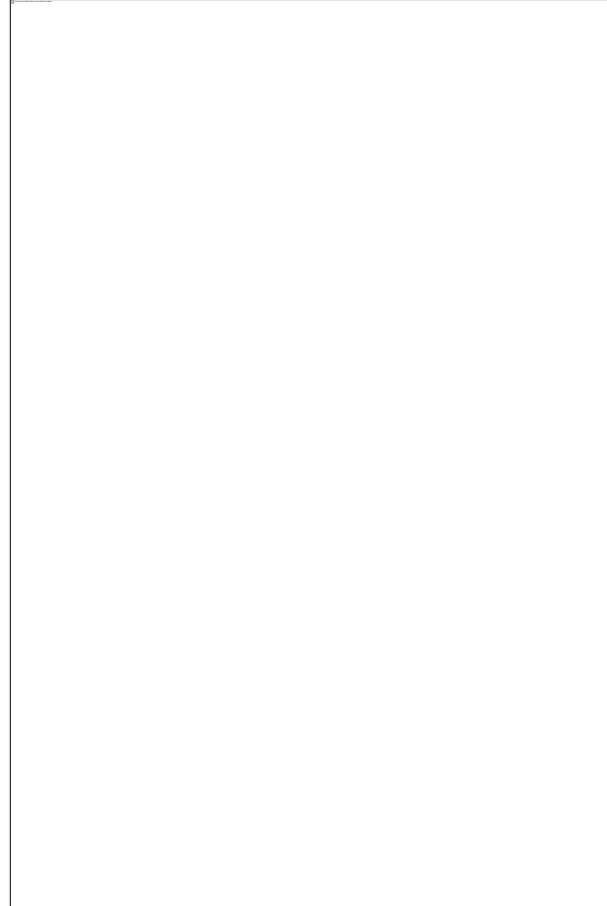
Source: <http://towarzystwodziennikarskie.org>, 16 June 2016



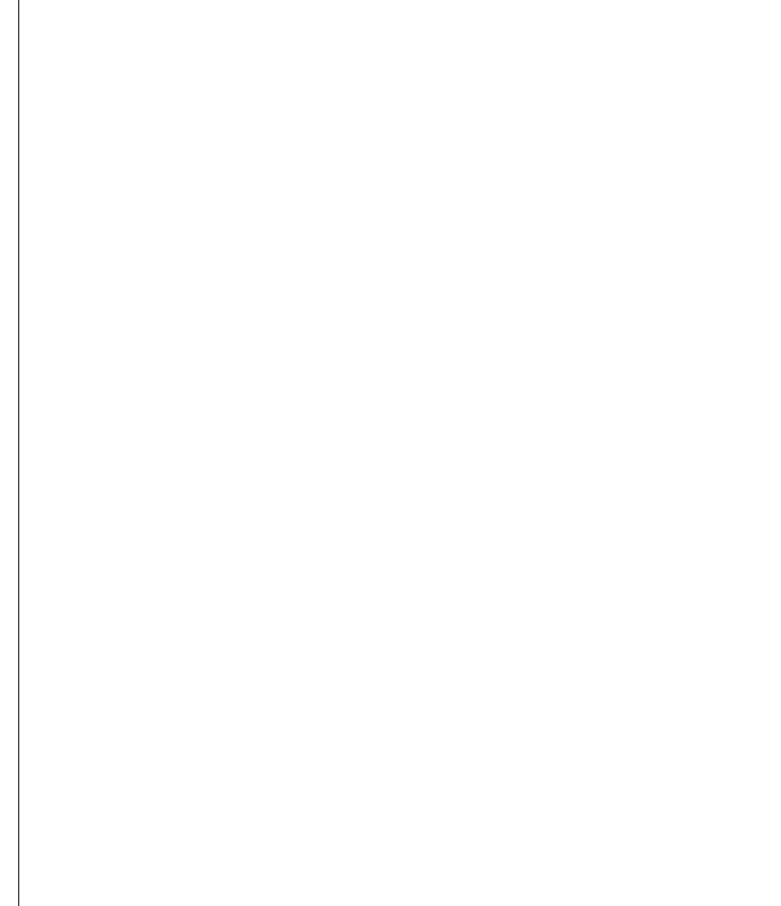
# 3 sample cases



Kamil Dąbrowa



Izabela Leśkiewicz  
& Magdalena  
Siemiątkowska



Tomasz Zimoch

# Strategic litigation?

**How the limits of loyalty of journalists working for state-owned media should be delineated and what restrictions can be imposed on them in public debate?**

- ECtHR: Wojtas-Kaleta v. Poland (HFHR submitted a third-party intervention)

The Court, having regard to the role played by journalists in society and to their responsibilities to contribute to and encourage public debate, considers that the obligation of discretion and constraint cannot be said to apply with equal force to journalists, given that it is in the nature of their functions to impart information and ideas (...)

The Court notes the applicant's argument that, as a journalist, she had a right and an obligation to comment on matters of public interest. In the Court's view, in the particular context of the applicant's case, her obligations of loyalty and constraint must be weighed against the public character of the broadcasting company she worked for. (...)



**Violation of Article 10 of the ECHR**

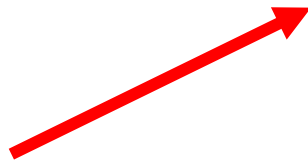
- See also the ECtHR judgment: Fuentes Bobo v. Spain

# Consequences of the new legal framework – impact on the content

National Broadcasting Council report – content analysis of 3 main news programmes in Public TV and two private TVs:

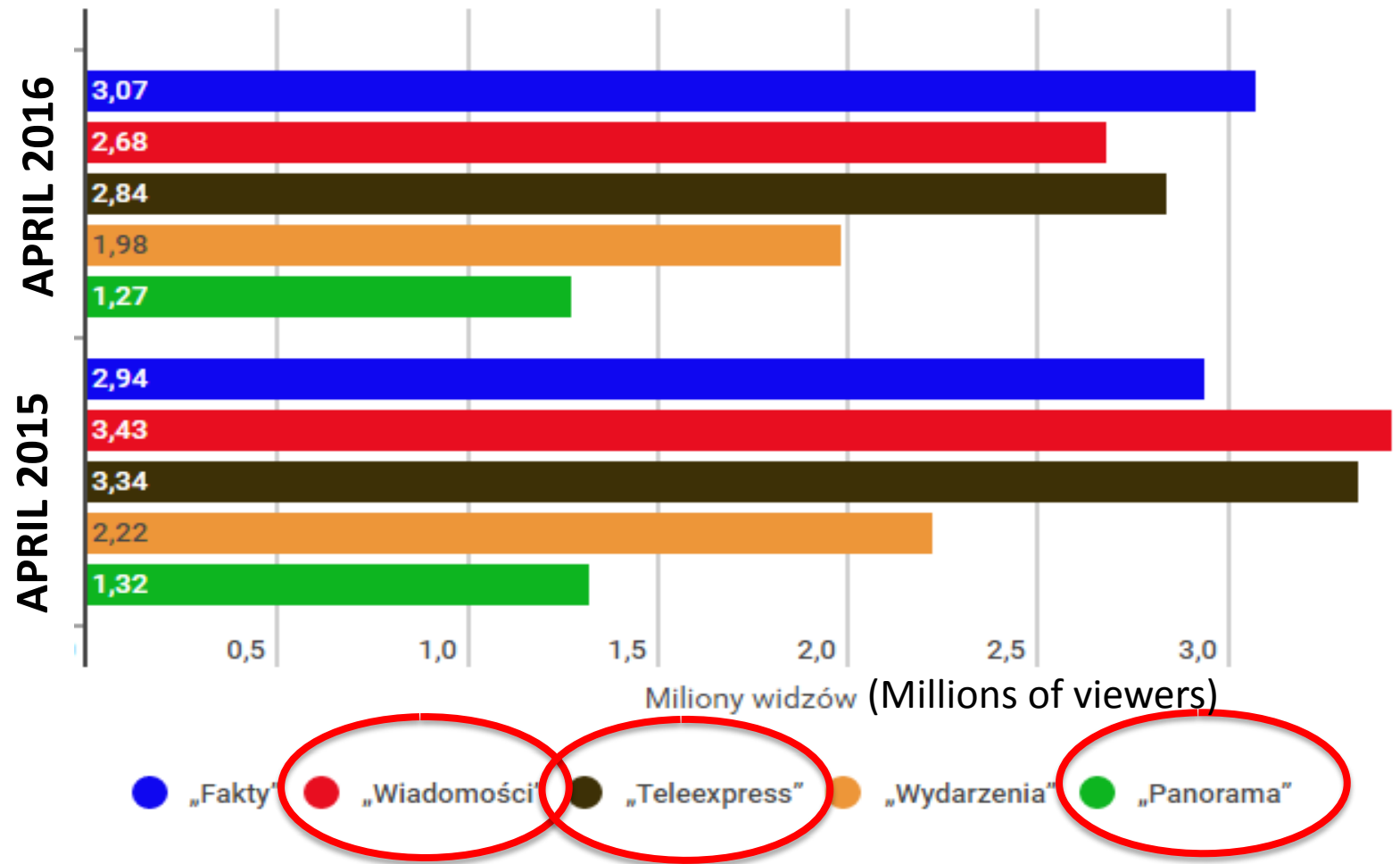
- The study was conducted between 4.02.2016 and 11.02.2016 by researchers from SWPS University in Warsaw.
- **Main conclusion** concerning the public TV's news programme: its content is politicised and bias.
- „The results of the analysis of the program content of “Wiadomości” provide the basis for its extremely critical evaluation. It is not only about the shortcomings established in quantitative analysis, but also disturbing violations of the law and journalistic ethics (...)”. Source: presentation summarizing the main findings of the study: [http://www.krrit.gov.pl/Data/Files/\\_public/Portals/0/komunikaty/12.04.2016/prezentacja\\_ekspertyza.pdf](http://www.krrit.gov.pl/Data/Files/_public/Portals/0/komunikaty/12.04.2016/prezentacja_ekspertyza.pdf)
- TVP managers refute the charges.

## Consequences of the new legal framework – viewer and listener ratings



**Viewership of the main TV news programmes,**  
 source: Nielsen Audience Measurement  
 (www.newsweek.pl)

„Wiadomości” (TVP 1 news programme) in 2015 was the most popular among all the news programmes, whereas in February 2016 it holds the third position.



March – May 2015	March – May 2016
9,5 %	8,4 %

**Polish Radio – Channel 1 listening figures,**  
 source: Radio Track, Millward Brown (<http://www.press.pl>)

## Consequences of the new legal framework – viewer and listener ratings

### Viewership of main news channels and general groups of TV channels in Poland

Source: Nielsen Audience Measurement ([www.wirtualnemedi.pl](http://www.wirtualnemedi.pl))

**Disclaimer:** TVP management questions the accuracy of the Nielsen's results.

WIRTUALNEMEDIA.PL	Wszyscy 4+		Dynamika
	maj 2015	maj 2016	
Stacja	SHR %	SHR %	W proc.
TVN24	3,31%	3,87%	16,92%
TVP INFO	3,72%	3,09%	-16,94%
Polsat News	1,22%	1,09%	-10,66%
TVP3	1,00%	0,99%	-1,00%
TVN24 Biznes i Swiat	0,28%	0,35%	25,00%
Superstacja	0,23%	0,30%	30,43%
Polsat News 2	0,11%	0,12%	9,09%
TV Republika	0,13%	0,12%	-7,69%
Grupy kanałów			
TVN	3,59%	4,22%	17,55%
TVP	4,72%	4,08%	-13,56%
Polsat	1,33%	1,21%	-9,02%

# Consequences of the new legal framework – reaction of international community

## Reporters Without Borders

### Freedom of Expression Index 2016

- 29 December 2015 - **Association of European Journalists**
- 30 December 2015 – **OSCE Representative on Freedom of the Media**
- Several statements by **European Broadcasting Union (EBU)**
- 1 February 2016 - **The European Federation of Journalists (EFJ), the European Centre for Press and Media Freedom (ECPMF) and the International Press Institute (IPI)**
- June 2016 – **International Federation of Journalists (IFJ)**
- 15 June 2015 - **CoE's Human Rights Commissioner – Report on Poland**

**2015 - 18 , 2016 - 47**

“Poland (47th, down 29) fell spectacularly in the 2016 index as a result of the government’s declared aim of restoring foreign-owned Polish media to Polish ownership and a law, enacted in early 2016, allowing the government to hire and fire those who run Poland’s public radio and television”.



