

Depoliticizing Italy's Public Service Media Amid New EMFA-Driven Reform Proposals

VB verfassungsblog.de/european-media-freedom-act-and-the-jigsaw-of-the-parliamentarized-italian-rai/



Ylenia Maria Citino

21 October 2024

European Media Freedom Act and the Jigsaw of the “Parliamentarized” Italian RAI

Will the European Media Freedom Act (EMFA) be effective in depoliticizing public service media (hereinafter, PSM) across the EU? Italy presents a particularly compelling case as the history of its national broadcaster, Radiotelevisione Italiana (RAI), in a highly concentrated audiovisual market is intertwined with the country's political landscape, making it a symbol of political meddling.

Just days ago, the RAI Board of Directors was renewed amidst usual criticism from the political opposition while the Italian Parliament launched discussions on a potential reform. Five bills seek to alter the governance of public broadcasting in the footsteps of the 2015 Renzi RAI reform. The timing of these developments is far from coincidental, highlighting how appointments follow intense negotiations between political parties, driven more by current power dynamics in parliament than by considerations of merit.

Meanwhile, with the EMFA in place, all EU Member States, including Italy, must introduce rules to prevent political interference in PSM. Compliance with the EMFA could help Italy solve a long-lasting matter of concern: full independence of RAI from political control.

This blog post provides a first reading of the freshly initiated reform package to evaluate whether – and to what extent – the proposals have the potential to reshape the Italian audiovisual framework and break the cycle of political capture.

The audiovisual Gattopardo

The EMFA, which came into force last May, puts pressure on Member States to comply with important standards and obligations concerning public service media, as the new provisions will be fully enforceable starting from 8 August 2025. This may impact the Italian landscape significantly, provided they are correctly enforced. EMFA's obligations are principled but critical.

By highlighting the need for an editorially and functionally independent PSM environment, Article 5 EMFA, among other things, calls for common standards such as a clear definition of the public service remit, sound management principles and “transparent, open, effective and non-discriminatory” procedures for the appointment and dismissal of PSM managers. It also stipulates that their tenure must be long enough to prevent them from being subject to political interference. On top of this, strict monitoring by national independent authorities is foreseen.

However, when compared to these standards, the five bills recently introduced in the Italian Senate fall short. In Tomasi di Lampedusa’s famous novel *Il Gattopardo*, the character Tancredi says, “If we want everything to remain as it is, everything must change”. This sentiment seems to echo in the Italian proposals. Before delving into the proposed changes, a few words on the current selection procedure must be spent.

Indeed, Italy’s national public broadcaster is one of the largest and oldest media organizations in Europe. Originating from the Italian Radio Broadcasting Union established in 1924, RAI has been operating since 1944 and has evolved into a media conglomerate managing various television channels, radio stations, satellite services, digital platforms, and even a symphonic orchestra. Despite a gradual decline in viewership, RAI continues to play a pivotal role in shaping public opinion and is still the dominant force in the Italian traditional media landscape (AGCOM, 2024).

Four out of seven members of the RAI Board of Directors are elected by each house of the Parliament according to a conventional rule that ensures a balanced distribution of the two nominees between the majority and the opposition. Two more are chosen by the majority shareholder of RAI s.p.a., the Minister of Economy and Finance (who controls 99,56 % of the shares). The final member is chosen by RAI’s employees’ assembly. Oversight is provided by a Parliamentary Bicameral Committee for the General Direction and Supervision of Radio and Television Services (hereinafter RAI Committee).

Interestingly, to qualify as RAI Directors, candidates must meet the same criteria as constitutional judges, pursuant to Article 135(2) of the Constitution. Alternatively, they must be individuals of “recognized honour, prestige and professional competence and of notorious independence of conduct, who have distinguished themselves in economic, scientific, legal, humanistic culture or social communication activities, and have acquired significant managerial experience”. Despite these rigorous requirements, political capture of the Board has been inevitable over the years.

An obvious solution would be ousting political parties from the selection process. This means transferring or diluting the parliamentary selection power to other bodies, such as the audiovisual independent authority, or adopting an even less invasive governance model like

that of Germany, where PSM Boards (*Verwaltungsrat*) are selected by a Broadcasting Council (*Rundfunkrat*) representing the most important social groups with a view to ensure pluralism (see a [Comparative Study by the Italian Chamber of Deputies, 2018](#); [Donders, 2021](#)).

Instead, the five proposals in Italy offer a “gattopardian” solution. Two bills ([draft bill no. 631](#) and [draft bill no. 199](#)) suggest expanding the RAI Board while maintaining Parliament’s role in appointing half of the Board. Another bill ([draft bill no. 1242](#)) expressly references the need to implement EMFA and envisions modifying the Board appointment procedure by giving a (yet limited) role to the President of the Republic and the audiovisual independent authority (AGCOM).

Politically meaningful, however, are the two proposals from center-right parties (although a government-initiated bill has yet to emerge). One is from Senator Gasparri, who authored the controversial [2004 Gasparri law](#). His [draft bill \(no. 162\)](#) proposes replacing the current “CEO” model introduced in 2015 with the old position of “Director General”, assuming that the CEO’s decision-making power is excessive. Gasparri’s bill, building on constitutional court rulings, reaffirms the central role of Parliament in RAI governance rather than diminishing it.

The other bill from the ruling coalition ([draft bill no. 611](#)), signed by senators of the League party, formerly known as *Lega Nord* (Northern League), takes an “identitarian public law” approach (for a definition, follow this [ongoing project](#)) offering a new definition of PSM as “an indispensable public service for maintaining and affirming cultural and social values and defending local identities”. Despite the originality of recognizing PSM’s identity-building function, the League’s proposal does not seem fit for EMFA obligations as the proposed governance does not adequately shield RAI from political interference.

Freeing RAI from political partisanship: A daunting task

The situation of the Italian public broadcaster is well known to international and European circles, particularly since the rise of media mogul Silvio Berlusconi to political power. During his terms as President of the Council of Ministers, he “had the opportunity to deeply influence RAI’s governance since RAI’s Board of Governors and its main executives were chosen either directly by or under proposal of the Executive” ([Mastrojanni, 2019](#), 51). This concentration of power not only distorted competition in the audiovisual sector—given that Berlusconi owned RAI’s main private competitor, Mediaset, along with other media outlets—but also undermined freedom of information in Italy.

In its 2013 [Report, the High Level Group on Media Freedom and Pluralism](#) recommended that “any public ownership of the media should be subject to strict rules prohibiting governmental interference”. More than a decade later, the deep involvement of the Italian parliament, especially through the RAI Committee, blatantly contradicts this recommendation as political dynamics still affect public service management. An important conventional unwritten rule ([Grasso, 2019](#)) suggests that the presidency of the RAI Committee should be

given to the main opposition party to ensure a degree of balance. Accordingly, all negotiations often follow a power-struggle logic, undermining merit-based choices. Political interference in Italian PSM was reiterated in the 2024 Rule of Law Report ([Country Report for Italy](#)) and further explored in a recent comment [on this blog](#).

Looking closely at the rules that govern RAI's Board composition, it becomes clear that at least four members must be loyal to the government: one from each parliamentary house and two from the majority shareholder (the Ministry of Economy and Finance). Board membership is, therefore, not impartial nor independent but, in reality, fragmented by competing allegiances that undermine the proper management of a public service broadcaster.

Political bargaining in RAI is not confined to top-level appointments. RAI politicization is more granular as it permeates also the selection of middle management and other positions, according to a complex system of informal power adjustments both in Parliament and within fractions of single parties. As a result, changes in government often lead to a reshuffling of company leadership, similar to a spoils system, which in turn influences the editorial direction of RAI's television, radio, and journalistic operations.

From parliamentarization to depoliticization: utopia?

Recital 31 of the EMFA States that PSMs must be free from governmental, political, economic or private interests, without prejudice to national constitutional law. Now, the strong influence of political parties in Parliament over RAI has roots in a well-established jurisprudence of the Italian Constitutional Court which entrenched a principle of “parliamentarization” of the management of the public service, a mechanism designed to avoid excessive encroachments on parliamentary sovereignty (critically, [Manetti, 2008](#)).

Initially, the Court maintained that the existence of a “natural monopoly” in broadcasting due to the limited number of available channels necessitated state control ([sent. 59/1960](#)). Over time, however, the Court's reasoning evolved ([sent. 225/1974](#); [sent. 284/2002](#); [sent. 69/2009](#)) with a growing emphasis on the idea that only a public service broadcaster can guarantee access to the right to information and the right to cultural dissemination. As a “common good” ([Vigevani, 2021](#)) PSM must comply with specific service obligations, including independence, impartiality, open debate, objectivity and comprehensive information coverage. To ensure these obligations are met, the Court has consistently held that Parliament must be granted appropriate oversight powers, as only the Parliament reflects the existing pluralism of the society. Nevertheless, political conflicts inevitably reverberate in the management of public audiovisual services ([Lehner, 2004](#)). Furthermore, the ‘politicization’ of broadcasting service can obstruct judicial review of political decisions—such as those made by the RAI Committee (see Court of Cassation, [judgement No. 7072/1983](#))—thereby potentially undermining constitutionally protected rights, including freedom of expression.

Which weapon to depoliticize PSM?

In conclusion, the five reform proposals seem inadequate upon initial review. While they attempt to change power dynamics, their ability to truly depoliticize RAI remains highly doubtful. By maintaining Parliament's dominant role in governance, political parties will continue to exert significant influence over RAI's key decisions. According to Carlassare (2002), political involvement in PSM is acceptable as long as the government is not the sole decision-maker. This approach is further reinforced by Constitutional Court jurisprudence, which has historically afforded Parliament wide latitude in these matters to avoid judicial intervention on their merits. A more effective solution, in line with the EMFA, would involve strengthening the authority of Italy's independent media regulator to oversee RAI's governance (Caruso, 2009), thereby limiting the influence of both the executive and legislative branches to the strategic planning of the broadcaster's mission. Such a move would ensure a meaningful separation of powers, extending this principle to the Fourth Estate. Without it, any reform may only result in incremental changes, falling short of the EMFA's goal to depoliticize PSM across Member States.

LICENSED UNDER CC BY-SA 4.0

EXPORT METADATA

Marc21 XMLMODSDublin CoreOAI PMH 2.0

SUGGESTED CITATION Citino, Ylenia Maria: *European Media Freedom Act and the Jigsaw of the "Parliamentarized" Italian RAI: Depoliticizing Italy's Public Service Media Amid New EMFA-Driven Reform Proposals*, *VerfBlog*, 2024/10/21, <https://verfassungsblog.de/european-media-freedom-act-and-the-jigsaw-of-the-parliamentarized-italian-rai/>, DOI: [10.59704/2ce1f371162f1d2a](https://doi.org/10.59704/2ce1f371162f1d2a).

Explore posts related to this:

Other posts about this region:

Italien

LICENSED UNDER CC BY-SA 4.0