The Formal Independence of National Media Regulatory Authorities: A Cross-Country Comparative Study

TESIS DOCTORAL

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Bellaterra, May 2015
Familiei mele
ACKNOWLEDGEMENTS

First and foremost I would like to express my deep gratitude to my supervisor, Prof. Joan Botella Corral, for his continuous support, guidance and encouragement. From the very beginning of our collaboration, he has been unstintingly supportive of my determination to pursue the major academic challenge that is a Ph.D project. I thank him for believing so wholeheartedly in my eagerness and ability to work independently with great creativity and enthusiasm.

I am extremely grateful to Prof. Monroe E. Price for his excellent feedback and truly inspiring guidance while I was conducting my research at the Center for Global Communication Studies (CGCS) at the Annenberg School for Communication, University of Pennsylvania. I am also indebted to Prof. Hannu Nieminen for supervising and actively engaging me in his projects during my research at the Department of Media and Communication Studies, University of Helsinki.

I would like to thank all the professors whom I have met at various scientific events, and to the academics who have provided encouragement and shared ideas since I first became part of the international scientific community. In particular, I am very grateful for the helpful suggestions offered by Carolyn Jackson, Chris Hanretty, Christopher S. Yoo, Damon Centola, Daniel Hallin, David Levi-Faur, Martino Maggetti, Paolo Mancini, Robin Mansell and Victor Pickard.

Among my colleagues and friends, special thanks go to Claudio Pacchierotti for his assistance with the statistical analysis provided in this study, and to Irina Ciornei, Iván Medina Iborra and Ramona Enea Casse for their constant encouragement.

I thank the Government of Catalonia for awarding me a FI-DGR fellowship to pursue a Ph.D program in Spain.

Finally, I owe my family in Romania my deepest gratitude for their inspiration and support during my studies.
ABSTRACT

This dissertation presents a comparative study focusing on the formal independence of the National Regulatory Authorities (NRAs) for the audiovisual sector in Europe. It fills the theoretical and methodological gaps in the current literature by answering two key research questions:

1. How does the formal independence of national media regulators vary across countries?

2. Is there any interaction between the characteristics of media systems and political systems and the variations in formal independence of national media regulators?

The central argument of this thesis is that the cross-national differences in the variations in formal independence of NRAs can be explained by two factors: the configurations of media systems and political systems. By examining two separate samples of units of analysis, I demonstrate this claim in two ways.

Firstly, I carry out a cross-country comparative investigation on the institutional design of 51 NRAs in 48 countries. The extensive analysis is focused on scrutinising different setups of formal criteria regarding the structural and organisational design, funding mechanisms, accountability, and the competencies of media regulatory agencies which were created up to and including the year 2013.

Secondly, I conduct a large-N statistical analysis of 46 NRAs in 43 countries, and I test a set of hypotheses derived from previous contributions on regulatory agencies, media systems, and political systems. The data set on formal independence is original.

This dissertation supports the prior evidence on the cross-country variations in formal independence of NRAs. It also finds straightforward links between the types of media systems and politico-administrative regimes and the variations in formal independence of national media regulatory authorities. The taxonomy of media systems is proven to be strong with respect to its explanatory potential, in contrast with the framework of political systems, which is proven to have a weak explanatory potential.
RESUMEN

La Tesis presenta un estudio comparativo sobre la independencia formal de Autoridades Nacionales de Regulación (ANR) en el sector audiovisual en Europa, siendo novedosa al respecto, logrando una contribución singular en el plano teórico y metodológico. Dos preguntas de investigación sirven a este propósito:

1. ¿Cómo varía la independencia formal de los reguladores nacionales de medios de comunicación entre países?
2. ¿Existe alguna interacción entre las características de los sistemas de medios de comunicación y los sistemas políticos y la variación en la independencia formal de los reguladores nacionales?

El argumento central de la Tesis es que las diferencias entre países con respecto a la variación en la independencia formal de las ANR puede ser explicado por dos factores: por la configuración de los sistemas de medios de comunicación y por los sistemas políticos. Para ello, se lleva a cabo un doble análisis.

Por un lado, se analiza comparativamente el diseño institucional de 51 ANR en 48 países, hasta el año 2013, con un especial interés en los criterios formales sobre el diseño organizativo y estructural, los mecanismos de financiación, los instrumentos de rendición de cuentas, así como las competencias de las agencias de regulación de medios.

Por otro lado, se lleva a cabo un análisis estadístico de 46 ANR en 43 países. De esta forma se evalúa un conjunto de hipótesis derivadas de estudios previos sobre agencias de regulación, sistemas de medios de comunicación y sistemas políticos. La base de datos sobre independencia formal es original.

Esta investigación respalda conclusiones previas (existentes en la literatura) que indican la existencia de variaciones en la independencia de las ANR dependiendo del país. Así, se encuentra una notable conexión entre los tipos de sistemas de medios de comunicación y la independencia formal de las autoridades nacionales de regulación de medios. Además, se pone de manifiesto las relaciones entre los regímenes político-administrativos y la independencia regulatoria. Mientras que la taxonomía de los sistemas de medios de comunicación cuenta con un alto valor explicativo, el entramado político funciona como un débil predictor.
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List of abbreviations

Countries

AL- Albania
AM- Armenia
AT- Austria
AZ- Azerbaijan
BA- Bosnia-Herzegovina
BE- Belgium
BG- Bulgaria
CH- Switzerland
CY- Cyprus
CZ- Czech Republic
DE- Germany
DK- Denmark
EE- Estonia
ES- Spain
FI- Finland
FR- France
GE- Georgia
GR- Greece
HR- Croatia
HU- Hungary
IE- Ireland
IS- Iceland
IT- Italy
KV- Kosovo
LI- Liechtenstein
LT- Lithuania
LU- Luxembourg
LV- Latvia
MD- Moldova
ME- Montenegro
MK- Macedonia
MT- Malta
NL- The Netherlands
NO- Norway
PL- Poland
PT- Portugal
RO- Romania
RS- Serbia
SE- Sweden
SI- Slovenia
SK- Slovakia
TR- Turkey
UA- Ukraine
UK- United Kingdom

Organisations

BBC- The British Broadcasting Corporation
BEREC- The Body of European Regulators for Electronic Communications
CB- Central Bank
COCOM- The Communications Committee
CoE- The Council of Europe
EFJ- The European Federation of Journalists
EFTA- The European Free Trade Association
EPRA- The European Platform of Regulatory Authorities
ERGA- The European Regulators Group for Audiovisual Media Services
ESA- The European Space Agency
FH- Freedom House
GFMD- The Global Forum for Media Development
IRA- Independent Regulatory Authority
IREX- The International Research and Exchanges Board
ISAS- International Standardisation and Accreditation Services
ITU- The International Telecommunications Union
NRA- National Regulatory Authority
OECD- The Organisation for Economic Cooperation and Development
RSC- The Radio Spectrum Committee
RS- Reporters without Borders
TI- Transparency International
UNESCO- The United Nations Educational, Scientific and Cultural Organisation
WB- The World Bank
WTO- The World Trade Organisation

Others
EU- European Union
EC- European Commission
INDIREG- Indicators for Independence and Efficient Functioning of Audiovisual Media Services Regulatory Bodies for the Purpose of Enforcing the Rules in the AVMS Directive
SMART 2009/0001
AVMSD- The Audiovisual Media Services Directive
TDT- Terrestrial Digital Television
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Chapter 1  Introduction

1.1  Background of the study

The conventional idea that an independent media is intrinsically tied to the functioning of modern democracies is widely accepted. However, understanding the mechanisms of how and why independent media play a role in shaping an ‘effective democratic society’ requires many steps, primarily regarding the formation of media laws and institutional environments which enable ‘media to advance democratic goals’ (Price, 2006, p. 95).

As Price suggests, the creation of media laws does not determine a ‘free, pluralistic, and independent media’ (ibid., p. 97). The cultivation of an enabling environment which eliminates threats to media independence is crucially important, because threats ‘come not from bad laws, but from administrative acts that apply the laws arbitrarily or are completely outside the boundaries of the laws’ (ibid., p. 98). An enabling environment in this context encompasses the institutional structures in charge of safeguarding the provisions of media laws for freedom and independence, such as regulatory agencies, courts, or press associations.

The interplay between media independence and democratic regulatory institutions begs the question of what kind of institutional setups might strengthen or undermine the regulatory independence of the media regulators. Since regulatory independence can be seriously threatened by ‘partisan purposes’ (Gibbons, 2013), it is crucially important that the formal requirements of independence are embedded in the institutional design of regulatory agencies (Hanretty & Koop, 2012). Regulatory institutions are significant since they show the interaction between political control and the independence of the media.

The role played by institutions responsible for guaranteeing the independence of media through clear, specific and coherent regulatory practices across different democratic societies has attracted substantial scholarly interest. The literature of the last few decades offers some explanations for why media regulation is important, with significant emphasis on the government legitimacy in regulating the audiovisual sector.
Broadcasting is heavily regulated because it uses a limited natural resource, the spectrum of frequencies, which are managed by national governments and international authorities. The audiovisual media sector is responsible for ‘airing civil affairs and political debates’, and is therefore under the ‘legitimate constant pressure’ of legislators (Open Society Institute, 2005). Scholars have questioned whether democracy ‘is automatically supported’ when freedom of broadcasting is guaranteed or whether, instead, ‘additional assurances are necessary’ (Hoffmann-Riem, 1996). The traditional hypothesis that higher levels of democracy imply higher levels of media freedom has not yet been demonstrated convincingly, although this assumption provides a basis for understanding the relationship between media and politics.

Following the privatisation of former state-owned enterprises and the liberalisation of markets, National Regulatory Authorities (NRAs) have become key institutional players in the governance of various sectors such as finance, telecommunications, broadcasting, postal services, energy, transportation, protection, competition, food safety, and health care, etc. (Christensen & Laegreid, 2007; Coen & Thatcher, 2008; Geradin & Petit, 2004; Gilardi, 2008; Irion & Radu, 2013; Larsen, Pedersen, Sørensen, & Olsen, 2006). Much of the literature examines why governments allow the creation of independent national regulatory authorities, and how these bodies retain their independence, especially given politicians’ incentives to reassert control over them (Hanretty, 2010; Hanretty & Koop, 2012; Jordana & Levi-Faur, 2004; Majone, 2001; Spyrelli, 2003).

In contrast to the rich literature on the regulation of utility sectors, the number of studies dealing with the political aspects of audiovisual regulation is very limited. The establishment of National Regulatory Authorities (NRAs) for the audiovisual sector, as key regulatory agencies for the media, has only recently stimulated the academic debate on the links between independence and institutional design.

Regulatory independence as an effect or an outcome of particular institutional arrangements is a recurrent theme in many disciplines including political science, economics, law, and media and communication studies. The attempt to understand what independence is has led to a multitude of viewpoints and definitions (Cambini & Rondi, 2010; Gilardi, 2002; Hanretty & Koop, 2012, 2013; Maggetti, 2012). Much of the current literature on the independence of regulatory
authorities pays particular attention to the major distinction between formal (de jure) and actual (de facto) independence (Alesina & Summers, 1993; Baldwin, Cave, & Lodge, 2010; Busuioc, 2009; De Haan, Masciandaro, & Quintyn, 2008; Gilardi, 2008; Hayo & Voigt, 2007; Hanretty & Koop, 2013; Voigt, 2013). Empirical assessments of de jure and de facto independence originate from methodologies developed to study central banks (Alesina & Summers, 1993; Cukierman, 1992; Cukierman & Lippi, 1999; Eijffinger, Schaling, & Hoeberichts, 1998; Grilli, Masciandaro, & Tabellini, 1991).

Several scholars subsequently adapted the central banks methodology and developed universal indices in order to assess cross-country and cross-sector variations in independence (Gilardi, 2002, 2005a; Hanretty, Larouche, & Reindl, 2012; Gutiérrez, 2003a, 2003b; Edwards & Waverman, 2006; Montoya & Trillas, 2007).

However, in the study of national media regulators, relatively few studies have dealt with regulatory independence derived from the institutional structure (Färdigh, 2010; Hallin & Mancini, 2004, 2011; Hanretty & Koop, 2013; Jakubowicz, 2007a; Mughan & Gunther, 2000). Among the key issues in prior research on national media regulators are: the role of the media in the democratic process (Aalberg & Curran, 2011; Curran, 2005; Curran, Iyengar, Lund, & Salovaara-Moring, 2009; Gibbons, 1998; Hoffmann-Riem, 1996; Humphreys, 1996; Open Society Institute, 2005; Price, 1995; Price, Rozumilowicz, & Verhulst, 2003); media policy and regulation (Collins, 1994; Harcourt, 2005; Psychogiopoulou, 2012; Puppis, 2010; Van Cuilenburg & McQuail, 2003); the structure of media systems and the patterns of government regulation (Hallin & Mancini, 2004; Botella, 2007; Botella & Machet, 2006; Mutu, 2013; Mutu & Botella, 2013); the role carried out by ministries, and the degree of political independence and autonomy of regulators (Christensen & Lægreid, 2007; Hills, 1986; Hills & Papathanassopoulos, 1991; Gilardi, 2005a; Magetti, 2007; Majone, 1999, 2002).

Potential explanatory factors of NRAs’ independence, such as the traditions underpinning national media systems or administrations, have been hypothesised (Hallin & Mancini, 2004), but have never been tested on a sample including regulatory agencies for the audiovisual sector. Little systematic research has been done so far, although there is a growing body of literature that acknowledges the importance of studying the typologies of media systems and political
systems, and their potential influence on regulatory independence. The scarcity of comparative works is due to many conceptual and methodological inconsistencies in prior research (Livingstone, 2003; Norris, 2009).

As Norris (2009) explains, at a theoretical level, systematic interdisciplinary analyses or complementary conceptual approaches focusing on identical issues are rare. The majority of studies only examine topics from one perspective, for example from the viewpoint of media and communication studies, or from a political science approach. Among the issues debated by media and communication scholars are press freedom and independence, media policy and regulation, and media pluralism. Political science approaches are more diverse and include works related to policy analysis of regulation, multi-level governance, regulatory independence, and agency theories. However, the missing element from prior studies is the emphasis on the regulatory independence of National Regulatory Authorities for the audiovisual sector. In general, national media regulators are not analysed as a category *per se*, but included in the broad category of telecommunications regulators.

From a methodological perspective, as Norris (2009) clearly illustrates, there is a serious lack of systematic comparative works and quantitative data on the regulatory independence of the NRAs for the audiovisual sector, and no available instruments for measuring independence.

First, single-country or single-sector studies, rather than cross-comparative multiple case studies, predominantly form the research to date. Systematic overviews are limited, with the exception of the most recent contribution, the Indireg Report (*Indicators for Independence and Efficient Functioning of Audiovisual Media Services Regulatory Bodies for the Purpose of Enforcing the Rules in the AVMS Directive SMART 2009/0001*, 2011) prepared for the European Commission, which covers audiovisual regulators in European and non-European countries. The lack of extensive cross-country comparative approaches impedes presenting and evaluating consequences and outcomes of large-scale transformations (Donsbach & Patterson, 2004). As most studies only examine a small number of cases, any attempt to generalise the findings is problematic. In addition, as suggested by Norris (2009), the practice of introducing only descriptive findings is open to question, because no explanatory outcomes of descriptive exploration are advanced.
Owing to the lack of quantitative data, systematic empirical cross-national studies are rare. To my knowledge, no data set on the regulatory independence of national media regulators is currently available. As pointed out by Maggetti (2012), one of the major reasons for the absence of cross-country comparative works is the paucity of suitable methods for clear conceptualisations and assessments of core concepts such as independence or autonomy.

Based on the above background, this dissertation provides the first systematic examination of the regulatory independence of National Regulatory Authorities (NRAs) for the audiovisual sector in Europe. As will be presented in the following sections and chapters, this thesis focuses on the formal independence of national media regulators.

1.2 The motivation for the study

On February 3, 2014, the European Commission (EC) formally established a new group of regulatory authorities to oversee audiovisual services. This group, the European Regulators Group for Audiovisual Media Services (ERGA), is designed to foster closer and more regular cooperation between member states’ regulatory bodies and the EC, and to advise the EC in implementing the EU’s Audiovisual Media Services Directive (AVMSD). Members of the new group are the heads or high level representatives of national independent regulatory bodies in the field of audiovisual services.

The establishment of this group highlights the ongoing debate regarding media governance, policy and regulation across Europe. Strengthening cooperation between independent regulatory authorities in the broadcasting field is a recurring trend in recent policy recommendations. As seen in directives such as Directive 2010/12/EU, policy objectives emphasise EU coordination, especially with regard to establishing rules for shaping technological developments, creating a level playing field for emerging audiovisual media, preserving cultural diversity, protecting children and consumers, safeguarding media pluralism, combating racial and religious hatred, and guaranteeing and guaranteeing the independence of national media regulators.
Independence is considered a central principle of good governance, among other key elements such as accountability, transparency and participation\(^1\). Geradin and Petit (2004) define independence as ‘the absence of pressures from political and industry interests’, and emphasises the importance of establishing legal rules ‘that will shelter the agencies against undue pressures’ (p. 230). European and American scholars understand independence from political interests in different ways. This relates to the peripheral role of political parties in the EU model of governance. In the USA, independence means avoiding political control by a single party, whereas in the EU independence is understood as ‘independence vis-à-vis industry interests, as well as independence vis-à-vis the Commission and the Member States’ (id.).

Institutions are not ‘independent in se, but rather independent from some sources of pressure’, as Hanretty observes (2009, p. 12). Independence ‘is related to, but different from, political pressure’, and ‘it may be strengthened by (…) the repeated use of organisational rules designed to govern complaints by politicians imbues those rules with greater value’ (id.). Political pressure or interventions can be of two types: formal interventions, which are manifested through sanctions, rewards, and the appointment of heads and board members, and informal interventions, which ‘are likely to depend for their effectiveness on the politicians’ ability to take further, legal, actions which may have far more potent effects on the broadcaster’ (ibid., p. 34).

The hypothesis that very independent regulatory agencies will have a stronger position and greater power is a basis for normative arguments based on the credibility, legitimacy, and administrative capacity of NRAs. Does it matter whether national media regulators are independent from political pressures? Following normative arguments, the core argument of my research is that formal independence is desirable insofar as it contributes to the effective functioning of democratic regulatory institutions.

In this dissertation I focus on the formal or legal independence of national media regulators, placing the question of regulatory independence within the interdisciplinary agenda on regulation

across Europe. This work adds to current research as it introduces new data on a number of variables such as institutional framework, internal organisation and staffing, the powers of the regulatory bodies, financial resources and systems of checks and balances, and uses these indicators to create a proxy for the independence of regulators.

The broad objective of the study is to address the gaps identified in the extant literature. Several questions remain unanswered. How does the formal independence of national media regulators vary across countries? Why are some regulators more independent than others? Is there any interaction between the patterns of national media traditions and national political institutions and the cross-country variations in formal independence of national media regulators? Does a particular type of media system facilitate more or less regulatory independence? To what extent does the exercise of political power lead to more or less regulatory independence? Do the government institutions play a role in shaping the regulatory independence of media regulators?

This dissertation does not provide a definitive answer to the questions of under which circumstances national media traditions or systems of governance supply better performance in terms of regulatory independence. It does not examine the effects of institutional variations on the regulatory independence understood as a policy outcome. Instead, it makes a preliminary assessment of the variations in formal independence, and establishes the interplay between configurations of democratic political institutions, national media traditions and regulatory independence.

Specifically, the purpose of this work is threefold.

Firstly, it presents a revised typology of National Regulatory Authorities for the audiovisual sector, complementing current classifications. Employing a comparative research strategy, the extensive analysis scrutinises different setups of formal criteria with regard to the institutional, legal and regulatory framework of media regulatory agencies across Europe. The result of this comparative overview is to categorise and display standard groups of regulatory bodies, highlighting differences and similarities among regulators.

Secondly, it provides a first empirical assessment of the cross-country variations in formal independence of national media regulators. Based on the revised typology of institutional
arrangements, I replicate and test Gilardi’s (2002) index of formal independence, in order to measure the formal independence.

Thirdly, it explains the cross-national differences in the formal independence of NRAs, providing an empirical assessment of two theoretical frameworks based on both original hypotheses and on previous contributions. On one hand, media explanations consider the institutional design and the independence of regulatory agencies as functions of the media systems configuration (Hallin & Mancini, 2004). The theory of media systems developed by Hallin and Mancini has never been verified on a sample which includes the regulatory agencies for the audiovisual sector. On the other hand, political explanations consider the institutional design and the independence of regulatory agencies as functions of political factors or of national administrative traditions (Pollitt & Bouckaert, 2000, 2011). Again, this hypothesis has never been verified on a sample of media regulators. Therefore, this study employs the two taxonomies as proxies to examine the effects of media systems and political systems characteristics on the independence of regulatory independence.

Different models of NRAs for broadcasting have been established in European countries. Indexing their main features, emphasising the differences between them, and comparing the outcome in decision-making processes add important new data for measuring the performance of regulatory institutions. Indexing formal independence is relevant when assessing the actual independence of regulatory agencies. As Hanretty and Koop (2012) observe, ‘if formal independence does matter strongly for actual independence, and if more independent agencies deliver better policy, then there is value in studying formal independence’ (p. 199).

Further research is also needed to evaluate the extent to which NRAs use European networks of regulators to justify and legitimise independence. The EC’s establishment of the new group of regulatory authorities for broadcasting gives us the opportunity to explore this issue, contrasting national and European norms in an attempt to explain how transnational networks affect the relationships between regulators, national governments and European institutions.
1.3 Research questions and methodology

Based on a systematic review of the current literature on regulatory agencies, and theories of the media systems and the political systems, I have developed several research questions in order to study the regulation of the audiovisual sector.

The two central research questions I wish to answer within this dissertation are:

- How does the formal independence of national media regulators vary across countries?
- Is there any interaction between the characteristics of media systems and political systems and the variations in formal independence of national media regulators?

These two key research questions are elaborated in five specific research questions, as follows:

RQ1: What are the main institutional characteristics of national media regulators in Europe?

RQ2: To what extent do national media regulators share similarities or display differences with regard to the institutional setups?

RQ3: Does the formal independence of national media regulators vary across countries?

RQ4: To what extent do the differences in media systems explain the cross-country variations in the formal independence of national media regulators?

RQ5: To what extent do the differences in political systems explain the cross-country variations in the formal independence of national media regulators?

The argument of this thesis is that the cross-national differences in the variations in formal independence of NRAs can be explained by two factors: the configurations of both media systems and political systems. By examining two separate samples of units of analysis, I demonstrate these claims in two ways.

Firstly, I carry out a descriptive, exploratory comparative analysis of the institutional design of 51 NRAs in 48 countries across Europe and beyond, in which I answer the first two research
questions, that is, RQ1 and RQ2. These research questions address the key issues related to the institutional design characteristics of national regulatory authorities for the audiovisual sector. In particular, the extensive analysis focuses on contextualising and scrutinising different setups of formal criteria regarding the structural and organisational design, funding mechanisms, accountability, and the competencies of media regulatory agencies which were created up to and including the year 2013.

The aim of this exploratory approach is to provide a general perspective on the current media regulatory landscape. Chapter 4 summarises the findings of the comparative analysis and presents a revised typology of national media regulators, complementing current classifications. The analysis is based on data gathered and synthesised from multiple primary and secondary sources. Primary data sources are a set of questionnaires distributed to the head members of the national media regulatory authorities, legal statutes, broadcasting laws, and annual reports. Secondary data is provided by the professional report Indireg (2011) and by the extant academic literature.

Secondly, I conduct a large-N statistical analysis of 46 NRAs in 43 countries, in which I answer the research questions RQ3, RQ4 and RQ5. These research questions outline a framework for empirically assessing the cross-country variations in formal independence, and for analysing the extent to which the observed variations can be explained by the configurations of media systems and political systems.

For the empirical measurement of formal independence, I also consider the national media regulators which were created up to and including the year 2013. Cases are selected following the variable-oriented method, employed in order to test a limited number of variables (in the current study, one dependent and two independent variables) in a large-N study (N=46). The rationale behind the case selection involved qualitative sampling of cases that shared similar institutional designs. Criteria for case sampling are drawn from the literature on independent regulatory agencies and are described in Chapter 3.

The sample of NRAs is listed on page 90 in Chapter 3.
Some regulatory bodies were considered in the qualitative comparative analysis presented in Chapter 4, but excluded from the empirical measurement of formal independence presented in Chapter 5. The sample was chosen for a number of reasons. First, national media regulators do not exist in Estonia and Belarus. Second, I did not consider the regulatory bodies from overseas territories such as Gibraltar and the Isle of Man. Third, data was not available for the regulatory body in Andorra.

The full data set, which was used for the empirical part of the study, is built according to the criteria of comparability between the institutional models and the array of regulatory competencies. For this statistical approach, the data pertaining to the 46 regulatory bodies established by the end of 2013 is encoded. Changes in the legislative framework that have occurred since December 2013 are not reflected in the data set. The data set on formal independence is original, and was compiled through the collection of primary and secondary data. The qualitative data previously gathered for the comparative analysis was also used to operationalise the index of formal independence of national media regulators. The major findings are introduced in the quantitative study presented in Chapter 5.

The dependent variable analysed in this study is the formal or *de jure* political independence of national media regulators. The degree of regulatory independence is measured with Gilardi’s (2002) index of formal independence that captures the extent to which the regulatory agencies are independent from political power, providing accurate tools for investigating the main research questions and hypotheses advanced in this dissertation. The index describes five clusters of issues in the following areas: (a) the status of the agency head; (b) the status of the management board; (c) relationship with government and parliament; (d) financial and organisational autonomy, and (e) regulatory competencies.

Qualitative category type data regarding the five dimensions of Gilardi’s (2002) index of formal independence is gathered via primary and secondary sources, and was transformed into numerical values to enable the full spectrum of quantitative mathematical-statistical analysis methodology. Based on numerical coding and employing non-parametric tests, I calculate the dimension values for formal independence of NRAs and test several explanations for the observed variation.
The independent macro-variables are the media systems and political systems, expected to explain the cross-national variation in formal independence NRAs for the audiovisual sector. The media system variable is measured with the media systems categories developed by Hallin and Mancini (2004). For explanatory purposes, for testing the second independent macro-variable I divide the countries with regard to their particular choice of executive structure, legislature, political parties and electoral system. I operationalise the variable political systems by adapting various classifications in the current literature.

## 1.4 Contribution of the thesis

Given the inconsistencies identified in prior research and taking into consideration the broad objectives of the study in hand, I believe that this thesis complements the scholarship in innovative ways.

Firstly, by linking various bodies of literature from different disciplines, including political science, media and communication studies, economy and law, this study makes a significant interdisciplinary contribution. As emphasised in Section 1.1, there is a great lack of interdisciplinary approaches in the current research. The multitude of theoretical and empirical arguments derived from a critical review of the literature is used deductively as a framework for studying the regulatory independence of national media regulators, improving the current understanding of how the audiovisual media are regulated.

Secondly, this dissertation constitutes the most extensive, systematic comparative study of independent media regulatory agencies across Europe. To date, most of the work has focused on a limited number regulatory institutions, which poses difficulties in providing an overall, comprehensive perspective. This study extends the range of the cross-sector comparison across countries, advocating the use of comparative case studies research design.

In the third place, an original contribution of this study is the creation of both an original data set on the institutional settings of national media regulators, and an original index of formal independence built by adapting an independence index developed for Central Banks. Quantitative indices for assessing the independence of media regulators are currently not available. The empirical information on formal independence presented in this dissertation
constitutes, to the best of my knowledge, the most extensive data set on the institutional characteristics of national media regulators in Europe. Consequently, both the data set and the independence index have the potential to serve for multiple ways of improving further research.

In addition, this thesis consolidates the important role that the quantitative approach has in interdisciplinary areas of research. Providing not only descriptive findings, but also explanatory arguments for investigating outcomes, patterns and complex causalities among variables such as formal independence, media systems and political systems, is necessary for validating the results. The quantitative component of this thesis provides the means for an in-depth exploration of available tools for measuring the media independence.

Finally, this dissertation introduces the first empirical validation of the groundbreaking theory on media systems advanced by Hallin and Mancini (2004). Considered to be the most influential contribution in the media and communications field, this theory has never yet been verified on the regulatory agencies for the audiovisual sector, although it offers a preliminary interpretation of media systems as explanatory factors for the regulatory independence of media regulators.

In sum, this study gives a rich and theoretically relevant view of formal independence of national media regulators that not only addresses unanswered questions, but also opens up interesting avenues for future research.

### 1.5 Definitions of terms

It should be noted that in this dissertation I focus only on the regulation of television broadcasting, both public and commercial sectors, as broadcasting can also include radio. The definition given by Article 1(a) of the Directive Television without Frontiers has been used: [television broadcasting] ‘means the initial transmission by wire or over the air, including that by satellite, in unencoded or encoded form, of television programmes intended for reception by the public’ (as cited in Robillard, 1995, p. 2).

National Regulatory Authorities, formal independence, media systems and political systems are the key concepts analysed in this dissertation. While this section introduces only brief definitions of these terms, a detailed investigation of each concept is offered in the thesis.
National Regulatory Authorities are defined by Thatcher and Sweet (2002) as ‘non-majoritarian institutions, governmental entities that (a) possess and exercise some grant of specialised public authority, separate from that of other institutions, but (b) are neither directly elected by the people, nor directly managed by elected officials’ (p. 2).

Formal independence, as a main focus of this study, is used to refer to ‘the product of laws and statutes prescribing the institutional design and safeguards of a regulatory body’ (Indireg Report, 2011, p. 28). The requirements of de jure independence are formulated in legal documents such as constitutions, legislation governing agencies’ activities, and rules of procedures.

While various definitions of media systems exist, in this study I employ the theoretical framework advanced by Hallin and Mancini (2004). The authors explore and classify media systems focusing on particular media variables and political variables, which led to the following categories: Polarised-Pluralist model, Democratic-Corporatist model, and the Liberal media system model. These theoretical models are discussed in Section 2.7.1 at length.

And finally, I use Easton’s (1965) definition of political systems: ‘A political system is a goal-setting, self-transforming and creatively adaptive system. It consists of human beings who are capable of anticipating, evaluating, and acting constructively to prevent disturbances in the system’s environment’ (p. 132).

1.6 Thesis summary

This dissertation is presented in seven chapters.

In this introductory chapter, I have illustrated the rationale for studying the independence of national media regulators. I have discussed how the study of NRAs for the audiovisual sector is particularly challenging, and presented the major research questions which I aim to answer in this work.

In Chapter 2, I present a critical review of the theoretical and empirical literature under which this study is conducted, aimed at tracing theoretical accounts and hypotheses that can be employed in order to answer the defined research questions. I define the major concepts
employed in this dissertation, including the national media regulators, formal independence, media systems and political systems. By evaluating the related literature and discussing the gaps in prior research, the motivation and purposes of this thesis are explained in more detail.

In Chapter 3, I discuss the methodological approach at length. Emphasis is put on the research strategy, on the operationalisation and measurement of formal independence, and on how to test the hypotheses derived from the theoretical framework.

In Chapter 4, I introduce the findings of the cross-country comparative analysis on the institutional design of national media regulators. I provide a revised typology of NRAs for the audiovisual sector, clustering the main characteristics at agency level in four main sets related to institutional arrangements, funding mechanisms, accountability, and regulatory competencies.

In Chapter 5, I show the empirical findings on the cross-country variation in formal independence of 46 national media regulators across 43 countries. I shed light on typologies of media systems and political systems as explanatory factors accounting for the variation in formal independence. The relevance of each of the variable-level values of formal independence is discussed.

In Chapter 6, I integrate and discuss the major findings of the study. For each of the theoretical perspectives, research questions, and hypotheses, I evaluate the relevance of the results, by linking back to the theoretical perspectives on which I have built the expectations.

Finally, Chapter 7 concludes this dissertation. It summarises and discusses the main findings and their relevance in the light of previous research. Methodological lessons are drawn about the limitations of the study, and discussions of policy implication and suggestions for future research are outlined.
Chapter 2 Literature Review

2.1 Introduction

The aim of this dissertation is to provide a revised typology of National Regulatory Authorities (NRAs) for the audiovisual sector in Europe, and to assess the cross-country variation in formal independence of these regulators.

This chapter synthesises the extensive, ongoing dialogue in the literature, advancing a theoretical framework for establishing the importance of studying the regulation of the audiovisual sector. The scholarly literature is introduced deductively as groundwork for the research questions and hypotheses developed by the author. The fundamental theoretical framework for this study blends three different strands of academic scholarship: the literature on regulatory agencies, and the media systems and the political systems theories as explanatory paradigms.

Organised in several sections, this chapter presents the research problem under study, presenting major themes, suggesting why more research is needed, and advances how the proposed study is filling this need within the larger body of research. Finally, it incorporates the literature that relates to the independent and dependent variables under study.

2.2 Comparative approaches in prior research

Following the liberalisation of markets, the advent of National Regulatory Authorities (NRAs) for utility sectors such as telecommunications, energy or transportation has stimulated the academic debate on issues such as institutional structure, features of regulatory independence, and regulatory outcomes (Edwards & Waverman, 2006; Kleinman, Lin, & Palmon, 2014; Levy & Spiller, 1994; Thatcher, 2002a).


However, very few attempts have been made to study the regulation of the audiovisual sector, the institutional settings of national media regulators and the regulatory independence (Hallin & Mancini, 2004; Engesser & Franzetti, 2011; Bardoel & d’Haenens, 2004). Two basic scholarly approaches are currently being adopted.

First, from the perspective of media and communication studies, the institutional design and the independence of regulatory agencies are considered to be functions of the configuration of the media systems (Hallin & Mancini, 2004). However, the media systems theory developed by Hallin and Mancini has never been verified on a sample that includes the regulatory agencies for the audiovisual sector. Second, the political science literature advances that the institutional design and the independence of regulatory agencies are, in fact, functions of political factors or of national administrative traditions (Dehousse, 1997; Knill, 1998; Peck, 1962). Again, this hypothesis has never been verified on a sample of national media regulators.

The existing interdisciplinary accounts fail to connect the two conceptual approaches. A serious weakness is the lack of emphasis on the National Regulatory Authorities for the audiovisual sector. Perhaps the most serious limitations relate to the lack of extensive interdisciplinary analyses and comparative works, the lack of quantitative data on the regulatory independence of the NRAs for the audiovisual sector, and the lack of available instruments for measuring independence (Livingstone, 2003; Norris, 2009; Psychogiopoulou, 2012).

Although it presents a methodological challenge, the measurement of independence ‘is by now fairly established’ (Iron & Ledger, 2013). Most empirical analyses (Gilardi, 2002; Elgie & McMenamin, 2005) focus on formal independence of regulatory agencies. The empirical assessment of formal independence originates from methodologies developed to study central
banks (Alesina & Summers, 1993; Cukierman et al., 1992). Some authors have examined how this methodology is adapted for the assessment of regulatory independence in telecommunications (Gutiérrez, 2003a; Edwards & Waverman, 2006; Gual & Trillas, 2006; Montoya & Trillas, 2007) and energy (Larsen, Pedersen, Sørensen, & Olsen, 2006).

Full-fledged empirical analysis in comparative research remains scarce. Small sample sizes, the lack of quantitative data and the paucity of suitable methods for clear conceptualisations have been a serious limitation for many earlier studies (Maggetti, 2012; Norris, 2009). The research to date has tended to focus on singular cases rather than cross-country comparative studies. The lack of extensive cross-country comparative approaches impedes presenting and evaluating consequences and outcomes of large-scale transformations (Donsbach & Patterson, 2004). Since most studies examine only a few cases, it is difficult to generalise the findings. As Norris points out (2009), the practice of introducing only descriptive findings is problematic since no explanatory outcomes of descriptive exploration are advanced.

In recent years, scholars have examined the changing practices, structures and contents of media policy and regulation, mostly focusing on particular regions such as the Nordic countries (Balčytienė, 2009, 2012; Lund, 2007; Nieminen, 2009a, 2009b, 2010; Nieminen & Trappel, 2011), Western Europe (Humphreys, 1996; Kuhn & Stanyer, 1999; Rogers & Balle, 1985), and Southern Europe (Ballart, 2010; Ballart & Riba, 2010; Gunther & Mughan, 2000; Hallin & Papathanassopoulos, 2002; Mancini, 1993, 2000b, 2010; Mancini & Wolf, 1990). In Central and Eastern Europe, the institutional models of regulation developed after the collapse of the communist system in the early 1990s are recurrent in the recent literature (Balabanova, 2007; Gulyás, 1999, 2003; Gross, 2002; Jakubowicz, 2004a, 2004b; Downey & Mihelj, 2012; Splichal, 1994).

Studying the direct links among different national media traditions, political systems and NRAs is still a work in progress. So far, in the search for general communication patterns and their consequences, the investigation of institutional arrangements has been important when comparing systematically different media and political systems (Voltmer, 2000; Siebert, Peterson, & Schramm, 1963; Mughan & Gunther, 2000; Hallin & Mancini, 2004; Mancini, 1992, 2000, 2001, 2013; Snow, 1986; Stone, 1991).
The most extensive contribution on mapping regulatory agencies for the audiovisual sector is the professional Indireg Report (2011) prepared for the European Commission. The report identifies indicators for independence and efficient functioning of audiovisual media regulatory bodies. The outcome is an assessment of the level of independence and of the efficient functioning in five different dimensions: ‘status and powers’, ‘financial autonomy’, ‘autonomy of decision-makers’, ‘knowledge’ and ‘accountability and transparency’. The main objective is to give an overview on the status quo of audiovisual regulators in 43 countries (member states of the European Union, candidate and potential candidate countries for EU membership, the European Free Trade Association (EFTA) countries, USA, Australia, Singapore, and Japan).

Academic studies on media regulation and regulatory agencies for the audiovisual sector are scarce. More recently, the publication Media Regulators in Europe: A Cross-country Comparative Analysis edited by Sousa, Trützschler, Fidalgo and Lameiras (2013) addresses issues such as institutional design, regulatory functions, legitimising values, performance, and funding mechanisms of 13 national media regulators in Western Europe.

A rigorous comparative analysis is conducted by Hoffmann-Riem (1996), who investigates the media regulatory bodies in Australia, Canada, France, Germany, the United Kingdom, and the United States. Another descriptive account of the bodies regulating broadcasting is offered by Robillard (1995). The central focus of his study, Television in Europe: Regulatory Bodies–Status, Functions and Powers in 35 European Countries, is to analyse the media regulatory authorities identified on the basis of their status and power. Robillard (1995) provides a descriptive overview of the legal framework, of the rules governing access to the infrastructures–placing the regulatory bodies in their technical context– and of the powers delegated to these authorities. While also emphasising regulatory issues, Barendt’s (1993) comparative study of broadcasting law in the UK, France, Germany, Italy, and the United States addresses the question of who should be allowed to broadcast what on radio and television.

To sum up, all the studies reviewed so far are challenging from both a conceptual and a methodological perspective. This dissertation aims to fill the gaps identified in the extant literature in three ways.
Chapter 2

First, it attempts to provide an updated, revised typology of National Regulatory Authorities for the media, complementing current classifications within the literature on regulatory agencies. Second, it proposes an empirical assessment of the formal independence of national media regulators. Third, it explains why some countries have more independent regulators than others, by employing taxonomies of media systems and political systems as proxies of regulatory agencies’ independence.

The central argument of this dissertation is that formal or de jure independence from the political control is a key variable in explaining the efficient functioning of the audiovisual regulators. Formal independence is used to refer to ‘the product of laws and statutes prescribing the institutional design and safeguards of a regulatory body’ (Indireg Report, 2011, p. 28).

The aim of this chapter is to review the academic contributions framing the research questions put forward in the introductory chapter. In the forthcoming sections I clarify the conceptual differences of the term ‘regulation’ from both the political science and media and communication sciences viewpoints. Then I discuss the normative theories on media regulation, pointing out the formal and informal mechanisms embedded in the regulatory policies. Current classifications of NRAs for the audiovisual sector are reviewed, and the formal independence and the typologies of media systems and political systems are critically analysed.

2.3 The definition of regulation

Despite the frequent use of this term, there is little scholarly agreement on its meaning. Various definitions of regulation exist, reflecting specific research agendas, disciplinary concerns, and orientation towards different research methods (Jordana & Levi-Faur, 2004).

For instance, regulation, as argued by political scientists, is ‘the public administrative policing of a private activity with respect to a rule prescribed in the public interest’ (Mitnick, 1980, p. 7). Selznick (1985) describes regulation as ‘sustained and focused control exercised by a public agency over activities that are valued by a community’ (p. 363). Clarke (2000) defines regulation as ‘a form of ordering involving the constitution of a form of authority on order to achieve the practical management of competing interests’ (p. 5). One of the most cited definitions of regulation is put forward by Baldwin, Scott, and Hood (1998), who characterise regulation as
‘the promulgation of a set of rules, accompanied by some mechanism, typically a public agency, for monitoring and promoting compliance with those rules’ (p. 3).

Jordana and Levi-Faur (2004) summarise the current theoretical approaches of the concept, arguing that the various definitions of regulation mirror changes in the economic and social context of regulation, and also reflect the diversity of scholarly approaches across disciplines:

Until the end of the 1980s scholars outside the United States tended to employ the word ‘regulation’ to denote the general instruments of government for the control of the economy and society (...). The situation was different in the United States, where the notion of regulation had acquired a narrower meaning in response to the rise in the number of independent regulatory institutions and the consequent crystallisation of regulatory practices into a theory of governance (...). The global spread of the wave of regulatory reforms, and especially the establishment of independent regulatory institutions in various sectors of the economy (especially in the utilities), led to some convergence in the meanings of regulation (...). At the same time, it seems that the third meaning of regulation (all mechanisms of social control) (...) seems to be driven by the growth of (semi-)consensual international regimes for the governance of “global problems” such as weapons of mass destruction and climate change. (pp. 4-5)

The ‘rise of the regulatory state’ (Majone, 1994) is one of the most important consequences of the regulation processes in various public sectors (Loughlin & Scott, 1997; McGowan & Wallace, 1996). Jordana and Levi-Faur (2004) suggest that the term ‘regulatory state’ captures ‘the essence of the transformation of the capitalist economy’ (p. 10). The two authors discuss four implications of the recent advance of the regulatory state for the study of regulation, with an emphasis on the conceptual relevance of the term ‘regulation’, the relations between competition and regulation in the capitalist economy, the political character and the political foundations of the regulatory state.

Jordana and Levi-Faur (2004) define the regulatory state as ‘a fiction that provides a sort of intellectual brazier around which [scholars of regulation] can all gather, to warm our hands and speak to each other, in a world of increasingly fragmented academic professionalism’ (p. 8).
They consider that ‘the advance of the regulatory state is conditioned by sectoral characteristics (...), multiple forms of control (...) employed in the governance of the capitalist economy, (...) embedded successfully in older layers of governance that were created for different purposes and in different eras’ (p. 9). They further state that the rise of the regulatory state is seen as ‘only one dimension of historically and institutionally entrenched modes of governance such as the welfare state, the developmental state and the stabilization state’ (pp. 9–10).

These interpretations of regulation from the political science perspective are complemented by the definitions advanced by the media scholars. As emphasised by McQuail (2010), regulations are derived from policies to be implemented, policies provide direction and legitimisation for proposals and actions, and theory establishes the main issues to be covered.

The conceptual distinction between media policy and media regulation is put forward by Des Freedman (as cited in Psychogiotopoulou & Anagnostou, 2012): ‘If media policy suggests the broader field where a variety of ideas and assumptions about desirable structure and behavior circulate, then regulation points to the specific institutional mechanisms for realizing these aims’ (p. 7). Institutional mechanisms refer to the formal regulatory provisions stated in laws, statutes, and constitutions.

Three elements are of fundamental importance when shaping the media regulatory policy: the actors; the venues, and the processes through which national media policies are created (id.). As the two authors argue, policy actors are national governments, international and regional organisations, transnational bodies, the media industry itself and the civil society operating across states.

The venues where media policies are formed are configured by ‘the state-based institutional arrangements supplemented by supra-national settings’ such as the International Telecommunications Union (ITU), the World Trade Organisation (WTO), the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the Organisation for Economic Cooperation and Development (OECD), the Council of Europe (CoE) (ibid., p. 12).

The regulatory processes are influenced by the proliferation of actors and venues for media policy-making (ibid., p. 13). Research finding by Black (as cited in Anagnostou,
Psychogiopoulou & Kandyla, 2010) points towards three main interpretations of the regulatory processes:

The first comprises rules promulgated by government, with accompanying mechanisms for monitoring and enforcement, frequently through a specialist agency. The second covers all forms of direct state intervention in the economy. The third conception is considerably broader, embracing ‘all mechanisms of social control or influence affecting all aspects of behaviour from whatever source, whether they are intentional or not’. (pp. 33-34)

The distinction between ‘regulatory context’ and ‘regulatory content’ is clearly established by Black. While ‘regimes context concerns the backdrop and operating environment in which regulation takes place’, ‘regime content covers the policies and values enshrined in regulation together with the organisations that shape these policies and their mode of operation, attitudes and beliefs’ (id.).

Furthermore, regulation can be understood in ‘fragmented’ or ‘decentered’ forms: state regulation, co-regulation, and self-regulation (Black, 2002).

State-regulation is backed by the ‘instruments of control, (...) rule-making, monitoring and enforcement via bureaucratic organs’ (Levi-Faur, 2011, p. 2).

Co-regulation occurs when the regulators and the regulatees share the responsibility for regulatory enforcements. As Levi-Faur (2011) suggests, ‘the particular scope of cooperation may vary as long as the regulatory arrangements are grounded in cooperative techniques and the legitimacy of the regime rests at least partly on public–private cooperation’ (ibid., p. 13).

Self-regulation takes the form of guidelines, principles, and goals of operators, implemented voluntarily to represent public and industry interests. However, very often, self-regulatory bodies are mostly operating in the favour of the industry, adopting the ‘command-and-control techniques (...) employed by the state’ (Anagnostou et al., 2010, p. 35).
Chapter 2

Having defined what regulation is, the forthcoming units present the normative theoretical approaches on regulation from interdisciplinary perspectives.

2.4 Normative theories of regulation

2.4.1 Media approaches

A considerable amount of literature has been published on the relationship between public definitions of the media and their impact on the regulatory regimes (Curran, 1991; Gurevitch & Blumler, 1990; Hachten & Hachten, 1987; Jakubowicz, 1998; McQuail, 1992; Nordenstreng, 1997; Siebert, Peterson, & Schramm, 1963; Sparks, 1997; Van Cuilenburg & McQuail, 2003). The normative approach reflects on what ‘the press should do’ (Siebert et al., 1963), while the regulatory regimes, which deal with ‘how media ought to, or are expected to, operate’ (McQuail, 1994, p. 121), reflect the divergence between theory and practice.

Several press theories and normative models of journalism are proposed (Christians, Glasser, McQuail, Nordenstreng, & White, 2009; Nordenstreng, 1997; Ostini & Ostini, 2002; Siebert et al., 1963). Benson (2008) reviews the current normative classifications as conceptualised in the pioneering work *Four Theories of Press* (Siebert et al., 1963). He identifies broad traditions of thought: non-democratic theories (including authoritarian, totalitarian, Marxist-Leninist); developmental and democratic theories (including libertarian, social responsibility, democratic élite, democratic participatory, public sphere, and postmodern theories).

The *Authoritarian Theory* advances that the media should be obedient to the interests of the state ‘in maintaining social order or achieving political goals’ (Benson, 2008, p. 2592). Authoritarian methods for controlling the media are censorship, licensing, bribery and repression.

The *Soviet-Communist Theory* of press was representative in the context of the Cold World. It postulates that media ‘should not be privately owned, should serve the interests of the working classes, and most importantly, should provide a complete, objective view of the world following Marxist-Leninist principles, as defined by the communist-party controlled state’ (id.).
The Development Theory argues in favour of pluralism, the right to communicate, economic development and the nation-building process.

At the core of the Libertarian Theory, formulated by John Locke, is the press as a marketplace of ideas, supporting democracy. Freedom from state intervention is stipulated in the First Amendment to the U.S. Constitution, which specifies that ‘Congress shall make no law abridging the freedom of speech, or of the press’ (ibid., p. 2593).

The Social Responsibility Theory advances the watchdog role of the press, together with the ‘journalistic ideal of objectivity (…), the balancing of opposing viewpoints, and maintaining a neutral observer role for the journalist’ (id.).

The Democratic Elite Theory postulates the role that professional élites play in the effective development of democracy. The media should inform about the work of government institutions, in a ‘critical, serious tone’.

In the Democratic Participatory Theory, the emphasis is on the political participation of citizens, while in the Public Sphere Theory, the quality of the arguments for reaching social consensus is the most important element.

Lastly, the Postmodern or Constructionist Theory promotes ‘personal narratives and emotions over abstract reason’ (ibid., p. 2595).

The press theories and normative approaches are of fundamental importance when studying the basic values of media and the way they are mirrored through regulatory regimes. As Jakubowicz (1998) observes:

In totalitarian/authoritarian societies, media regulation usually serves to subordinate the media to the interests of the ruling minority. In democratic societies, regulation with a light touch is usually confined to protection against abuse of media freedom (…), with most other things left to market mechanisms. (…) There may also be interventionist regulation serving to promote the public interest, defined, as the case may be, as
enhancement of media pluralism, prevention of undue concentration, facilitation of access to the media, etc. (p. 1)

However, inconsistencies between the normative/ideal type and practical experience have been also suggested. For instance, drawing on an extensive literature, Jakubowicz (1998) argues that the media changes in Central and Eastern Europe reflect the tensions between press theory and press practices and regulations, as key ‘problems of transition’. These tensions are seen as consequences of differences between:

[the] idealised alternative normative model of media democratisation developed by the dissidents in the 1980s and (...) the reality which set in afterwards, and public expectations of the media and the actual patterns of their performance, resulting from both legal and institutional models (especially as relates to state or public broadcast media) developed on the basis of regulation and media and journalistic performance. (Jakubowicz, 1998, p. 2)

In post-communist countries, the separation of media from the structures of the state was incomplete, which resulted in high political polarisation, and low levels of autonomy and journalistic professionalism. Broadcasting regulatory authorities were subject to government interference, mostly through the appointment of the authority heads and board members, funding mechanisms and regulatory competencies. The relationship between political control and the media is thoroughly scrutinised by Hallin and Mancini (2004) in their groundbreaking theory of media systems, which is reviewed in Section 2.7.1.

### 2.4.2 Political approaches

In the attempt to explain regulation, several broad theories have been advanced. These theoretical approaches account for the external factors that have influenced the evolution of regulation, and the institutional culture and settings that have enhanced the regulatory processes (Baldwin, Cave, & Lodge, 2010; Baldwin, Scott, & Hood, 1998; Bernstein, 1955; Boyer, 1990; Dunleavy & O'Leary, 1987; Majone, 1994, 1997a, 1999; Mitnick, 1980; Sabatier & Mazmanian, 1980; Stigler, 1971; Wilson, 1980).
Baldwin, Cave, and Lodge (2012) review the schools of thought and classify the regulatory theories in four clusters: ‘public interest’, ‘interest groups’, ‘ideas’, and ‘institutions’.

Accordingly, in the Public Interest Theory, regulations are formulated according to the public interest, rather than the interests of groups, sectors or individuals. Main concerns regarding this approach are the lack of consensus on the definitions of ‘public interest’, and the lack of expertise and inefficiency of regulators.

In contrast, the Interest Group Theory, also called the Economic Theory of Regulation, builds on the assumption that ‘regulation is acquired by the industry and is designed and operated primarily for its benefit’ (Stigler, 1971, p. 3). The author introduces the concept of ‘regulatory capture’. Regulatory capture by stakeholders happens when regulatory authorities serve the interests of the regulated, rather than safeguarding the ‘public interest’.

Explanations based on the Power of Ideas, as Baldwin et al. (2012) suggest, are grounded in a broader literature on public policy and regulation (p. 49). The main elements of this theoretical approach are: the changing ideologies regarding the ‘deregulation process’, the plurality of viewpoints regarding regulation, and the ‘importance of deliberation and conversations’.

The Institutionalist literature focuses on ‘inter-institutional relations’, ‘intra-institutional forces’, and ‘regulatory space’. The ‘inter-institutional relations’ approach is focused on the institutional design of regulatory agencies, and on the mechanisms for establishing ‘the rules of the game’ when delegating regulatory powers to agencies (ibid., p. 54). The question ‘why delegate powers’ is answered by looking at three issues: the information asymmetry (that allows for discretionary regulatory activities), credible commitment (as a sign of effective regulatory environment), and blame avoidance (when things go wrong, politicians do not suffer in terms of their reputation).

The ‘intra-institutional forces’ account for the regulatory changes within organisations. Baldwin et al. (2012) distinguish four ways in which organisations respond in the regulatory environment: institutional layering (resistance and accommodation), persivity (adaptation), self-referential accounts (own rationality), and regulatory space/network approach (supra-national regulatory agencies).
To sum up, the brief review of the major normative approaches on regulation introduced in this section contributes to a better understanding of how the study of regulation has emerged in various disciplines. Based on these theoretical perspectives, the following unit of this chapter discusses the regulation of the audiovisual sector in Europe. It traces the origins of broadcasting regulation, determines the rationales for the regulatory intervention, and analyses the emergence of the National Regulatory Authorities for the audiovisual sector.

2.5 The regulation of the audiovisual sector in Europe

2.5.1 Historical foundations, determinants and forms of regulation

The audiovisual sector covers the film, broadcasting (television and radio), video and multimedia markets. Broadcasting encompasses a diverse range of radio and television services for entertainment, educational and informational purposes (Withers, 2002).

According to Hills (1991), regulatory activity in Europe originated in the late 19th century ‘from laws established to control the development of wireless telegraphy’ (p. 79). By the Second World War, in the first paradigmatic phase of regulation, as defined by Van Cuilenburg and McQuail (2003), the United Kingdom (1922), Italy (1924), Sweden (1925), Ireland, Denmark and Finland (1926) have established national monopoly broadcasters. ‘Although controlled by the state in matters concerning organisation and finances’, broadcasting in Western European countries was regulated ‘fairly independent’ in matters concerning programming policy’ (McQuail & Siune, as cited in Hills, 1991, p. 80).

The second phase of regulation, which is called the public service paradigm (Van Cuilenburg & McQuail, 2003), lasted until the 1980s/1990s. Public service broadcasting was seen to ‘embrace commitment to quality and the service of the public interest’ (Hills, 1991, p. 80), reflecting cultural differences and diverse opinions. Government control was justified by the potential ‘dissemination of subversive ideas’, and by the need to protect the freedom of information principle. Two models of broadcasting regulation have emerged in this second phase, according to Hills: the state-controlled monopoly, and the duopoly system.
In both systems, public service bodies play a determinant role, due to either consistent state intervention or a high degree of self-regulation. (...) In the state-controlled monopoly system, public service broadcasters enjoy a de jure monopoly, whereas in the duopoly system there is a competitive environment that includes private broadcasters. (Hills, 1991, p. 81)

Market liberalisation and competition issues led to the need for national regulation. In the third paradigm of broadcasting regulation, from the 1990s onwards, following the privatisation of former state-owned enterprises, regulatory agencies for overseeing broadcasting were created, under various degrees of political pressure (Indireg Report, 2011, p. 79).

Why regulate broadcasting? McQuail (2010) identifies six main aspects of broadcasting that require regulatory intervention: structure (monopoly, ownership, licensing, public or private control of media); infrastructure (technical standards, allocation of frequencies and satellite positions, international agreements); distribution (services, obligations placed on suppliers of communication services and on receivers); access (ownership and operating rights, claims to access to channels owned and operated by others); conduct (journalistic ethics, copyright, privacy and rights to information), and content (broadcast laws).

More specifically, four main arguments were advanced in favour of broadcasting regulation: technological, economic, political, and cultural (Freyens, 2012; McQuail, 2010; Thierer, 2007).

Spectrum scarcity is the classic argument in favour of government intervention. Existing as a phenomenon in nature, the spectrum is a limited economic resource managed by national governments and international authorities such as the International Telecommunication Union (ITU), The Communications Committee (COCOM), the Radio Spectrum Committee (RSC), the Body of European Regulators for Electronic Communications (BEREC), and the European Space Agency (ESA).

As Thierer (2007) noted, the ‘public interest’ regulatory requirements have replaced the ‘scarcity doctrine’. However, defining the notion of public interest is problematic for governments, since often it represents ‘whatever the people who enforce it want it to be’ (Krattenmaker & Powe, as cited in Thierer, 2007, p. 441).
Broadcasting regulation is also important from an economic perspective, because convergence issues and the digital revolution deeply impact this key sector, as Withers (2002) suggests:

The economics of broadcasting focuses on the nature of broadcasting markets and the nature of government involvement in those markets. The markets are primarily based on demand for broadcasting programs and are heavily influenced by the technology of program delivery. They are also profoundly influenced by government intervention in these markets, including involvement for non-economic reasons. (p. 2)

The extent of market, the degree of direct competition, the technical delivery options with ‘implications for the cost, quality and control of transmission’, and the relationship with the viewers, are considered to be key economic factors requiring regulatory intervention (Withers, 2002). As the author explains, the economics of regulation takes two forms: ‘positive and normative’. The positive theory of regulation explains what governments do (formal analyses are conducted by political scientists), while the normative theory focuses on what governments should do (economics play a larger in this approach).

The political and cultural features of broadcasting regulation are reflected in the framework for rule-making. McQuail (2010) argues that regulation can stimulate an ‘active participation in political life by the majority, to ensure the expression and dissemination of views critical of government, along with proposals for policy and new ideas’. At the same time, regulation is important because it establishes ‘the role that media plays in covering a wide range of news, entertainment and arts, sports, public education, and expressing and reflecting cultural identities, regional, ethnic and other forms of diversity’ (n.p.).

The main forms of regulatory intervention are structural regulation and content regulation (Psychogiopoulou & Anagnostou, 2012; Hoffmann-Riem, 1996; McQuail, 2010; Raboy & Padovani, 2010).

Structural regulation refers to the general framework imposed by the government in order to ‘influence indirectly the conduct of broadcasting companies and other entities active in the broadcasting sector’ (Hoffmann-Riem, 1996). It addresses the rules regarding the media ownership, the competition issues, licensing, access, financing, and spectrum management.
Content regulation encompasses the rules guaranteeing content diversity and the plurality of opinions, political advertising, protection of minors, audiovisual commercial communications, teleshopping, transmission quotas, and subsidies (Psychogiopoulou & Anagnostou, 2012).

Having discussed how the regulation of broadcasting emerged in Europe, the following section addresses the institutional mechanisms of regulatory intervention. The focus is on National Regulatory Authorities (NRAs) for the audiovisual sector.

### 2.5.2 National Regulatory Authorities (NRAs)

#### 2.5.2.1 Definitions

NRAs are defined as regulatory agencies that ‘perform functions of a government nature, and which often exists outside the normal departmental framework of government’ (Majone, 2000, p. 290). Alternatively, Thatcher and Sweet (2002) define NRAs as ‘non-majoritarian institutions, governmental entities that (a) possess and exercise some grant of specialized public authority, separate from that of other institutions, but (b) are neither directly elected by the people, nor directly managed by elected officials’ (p. 2).

In their analysis, Tenbücken and Schneider (2004) point out that the NRAs are ‘equipped with their own responsibilities, resources and, in organisational terms, are detached from ministries and thus not subject to the direct influence of politicians or government officials’ (p. 245).

Criteria for defining what a regulatory agency should be are put forward by Talbot (2004). It follows that an agency should be:

- [situated] at arm’s length (or further) from the main hierarchical ‘spine’ of central ministries/departments of state; carrying out public tasks (service provision, regulation, adjudication, certification) at a national level; staffed by public servants (not necessarily ‘civil servants’); financed (in principle) by the state budget; subject to at least some public/administrative law procedures. (p. 5)
NRAs have been created as a result of European Community law, as Geradin and Petit (2004) explain. According to the authors, key arguments for justifying the creation of NRAs were the need for independent regulatory decisions that are not bound by political parties or elections, and the need for complexity and regulatory technical expertise. Geradin (2000) lists the regulatory duties entrusted by the European legislation to NRAs: controlling access to the market (licensing and control compliance); controlling the behavior of operators on the market (ensuring compliance with the pro-competition requirements); ensuring the performance of universal service obligations; and settling disputes.

### 2.5.2.2 Typologies of NRAs

Several classifications have concerned the institutional forms of NRAs in the liberalised sectors. For instance, Namurois (1972) reviewed the world system of telecommunications, radio and TV services, proposing a typology of regulators based on four means of control: state-operated directly by a government ministry, department or administrative agency; public corporation operated autonomously under state charter; public interest partnership operated by legally chartered private corporations with state stock interests, and private enterprise operated by private individuals or companies under governmental license with generally weak regulations.

The previous categorisation is also exemplified in the work undertaken by Spyrelli (2003) who identifies three broad categories of institutional models of NRAs for the telecommunications sector: industry-specific, sector-specific, and multi-sector regulators. Accordingly, in the industry-specific regulator typology, a separate agency for the telecommunications sector is established. In the sector-specific model, a regulator is in charge of a particular sector, while in the multi-sector regulator model, a single regulatory agency oversees a wide range of sectors.

The key advantages and disadvantages of these institutional typologies are put forward by Spyrelli (2003), as follows:

Multi-sector regulators offer several advantages in comparison to single-sector ones. [They] can reduce political capture, (...) are more likely to resist any political intervention in a decision in one sector, since that decision can set a precedent for other
sectors, (...) and they are an effective means of dealing with converging sectors, such as the telecommunications and the broadcasting ones. (p. 20)

However, among the drawbacks of the multi-sector regulators are the dangers of political capture, since they can be heavily influenced by multi-industry players and ministries, and the difficulties in ‘reaching agreements on the institutional structure, independence, and the allocation of responsibilities between the ministries and the regulator’ (id.).

These distinctions are further explored by Smith (1997), who classified the regulators according to their institutional independence: traditional ministerial and fully independent authorities. Similarly, in an OECD report (2002) regarding the evolution of regulatory policy in the telecommunication sector, four distinct groups of regulatory institutions were identified: ministerial departments, as part of central governments; ministerial agencies, set at arm’s length from central government; independent advisory bodies, providing expert advice on specific regulations and aspects of the industry; and independent regulatory authorities, in charge with the regulation of specific sectors.

2.5.2.3 Delegation and regulatory independence

Among other requirements such as accountability, transparency and participation, independence is perhaps the most central principle of good governance. Independence is understood as ‘the absence of pressures from political and industry interests’, and its implementation ‘requires the adoption of a series of measures that will shelter the agencies against undue pressures’ (Geradin & Petit, 2004, p. 230).

The establishment of independent NRAs is required by European legislation (Geradin, 2000). Taking the telecommunications sector as a reference, Geradin suggests that the first emphasis on the institutional independence of NRAs was provided in Article 7 in Directive 90/338:

Member States shall ensure that from 1 July 1991 the granting of operating licences, the control of type approval and mandatory specifications, the allocation of frequencies and surveillance of usage conditions are carried out by a body independent of the telecommunications organisations. (p. 12)
‘Legal separation’ and ‘functional independence’ of NRAs are desirable in order to prevent telecommunication operators from exerting pressure on the regulators (id.). However, the choice between various models of institutional designs remains at the discretion of the European Member States. The formal structural settings also influence the distribution of regulatory powers between the NRAs and other institutions. As Geradin (2000) argues, ‘while some countries tend to concentrate powers in the hands of the NRAs, others tend to share powers between the NRAs and other bodies, such as the ministries and national competition authority’ (p. 15).

There has been extensive academic debate regarding the issue of government delegating regulatory independence to NRAs, while politicians try to retain their control over these bodies (Baldwin & McCrudden, 1987; Epstein & O’Halloran, 1999; Gilardi, 2002; Levi-Faur, 2005; Majone, 1997a, 2000; Magnette, 2005; Moe, 1982, 1985; Pollack, 1997, 2002; Thatcher & Coen, 2008; Yesilkagit & Christensen, 2010; Van Thiel, 2001).

The principal-agent approach best explains the reasons underlying the shifts in delegating regulatory independence to NRAs. Delegation is defined as an ‘authoritative decision, formalised as a matter of public law, that (a) transfers policy making authority away from established, representative organs (those that are directly elected, or are managed directly by elected politicians), to (b) a non-majoritarian institution, whether public or private’ (Thatcher & Sweet, 2002, p. 3).

The principal-agent relationship, explained from a rational choice institutionalism perspective (Gilardi, 2002), is ‘a social transaction, or interaction, in which one actor, the agent, carries out actions that are intended to fulfil the interests of another actor, the principal’ (p. 5). At the core of the rational choice institutionalism is the interest for institutions as determinants of political outcomes. Ad hoc explanations of delegating regulatory independence to agencies are considered issues such as political uncertainty (De Figueiredo, 2002; Elgie & McMenamin, 2005; Moe, 1990), credible commitment (Cukierman, 1992; Levy & Spiller, 1996; Majone, 1997b, 2001), lack of policy expertise (Epstein & O’Halloran, 1999), and agency loss (Pollack, 2002).
The assumptions of the rational choice functionalist approach are stressed by Magnette (2005). Governments delegate powers to independent regulators in order to reduce the problem of credible commitment caused by time inconsistency or non-compliance in the context of short-term electoral cycles, growing regulatory competition, and increasing international interdependence. Moreover, an independent regulator can provide the policy expertise required by governments, which means to ‘shift blames for unpopular decisions to other actors’ (p. 6). Finally, ‘recourse to non-governmental experts can also be useful to enhance the efficiency of decision making, particularly in fields characterised by a high level of technicality’ (id.).

A broader perspective of the delegation problem has been adopted by Thatcher (2002a, 2002b), who contextualises the factors that better explain the spread of independent regulators in Western Europe during the 1980s and 1990s. The author advances that the creation of independent regulators is embedded in particular national and historical contexts, and is influenced by: policy learning and institutional isomorphism; state traditions and structures in regulation; political leadership, and the broader institutional context of Western European states.

Policy learning and institutional mimetism refers to the ‘snowball’ effect of a ‘successful’ institutional example that is copied in several sectors or countries. As Meseguer (2005) states:

\[
\text{Governments may imitate what peer countries do simply because they are peers, or governments may imitate what apparently successful countries do simply because they are high-status countries that are considered to know best. (p. 73)}
\]

State traditions are important since long-standing regulatory concepts such as independence or self-regulation can facilitate the diffusion of independent agencies. In addition, as Thatcher (2002a) argues, ‘countries with strong leaderships can respond more quickly to pressures for delegation than those without such leadership’ (p. 108). Finally, the spread of independent regulators can be analysed by means of structural regulatory reforms imposed by privatisation and liberalisation of markets.
2.5.3 NRAs for the audiovisual sector

2.5.3.1 Historical overview

The rise of independent media regulators occurred as a response to the liberalisation process, in an attempt to prevent politicians from interfering in the functioning of public and commercial broadcasters: ‘The shift from interventionist to de-regulatory policies, primarily influenced by the minimal state ideology and market liberalisation, gave rise to a great variation in regulatory patterns across Europe’ (Irion & Radu, 2013, p. 14).

In Western Europe, the first independent regulators for the audiovisual sector were set up in the UK (1954), Germany (1980), France (1982), and Italy (1975). In contrast, in Central and Eastern Europe, media regulators were created after the collapse of the Communist regime, despite a ‘reluctance to liberalise the media market’ (Irion & Radu, 2013):

> The monopolistic position of the state ended in Albania and Bulgaria in the mid-1990s, in Latvia in 1996 and in Hungary in 1997. In Poland and Romania, the licensing of commercial broadcasters took place between 1993 and 1997. In Lithuania, until 2000, no regulation applied to the commercial sector, whereas the public broadcasting sector was heavily regulated. (p. 16)

After the fall of Communism in Central and Eastern European countries, intense lobbying by international experts from the United States and Europe led to the ‘battle of the [regulatory] models’, and contributed to the adoption of ‘contrasting’ regulatory paradigms, as highlighted by Harcourt (2003b):

> Underlying this battle were political, economic, and trade interests. Western governments were interested in guaranteeing the opening of new markets, and the stability of these new media markets for Western capital investment, as well as wider political concerns of consolidating democracy in Europe. (…) There are clear differences between US and European regulation of media markets. In the USA, plurality is seen to be best achieved as a result of self-regulation of media markets in the shadow of competition law, whereas,
generally in Europe, there appears the need for public regulation specifically for plurality and social responsibility. (pp. 317-318)

As Harcourt explains, ‘the battle of the two regulatory models’ was ‘fought on two fronts’ (id.). On the one hand, the ‘Europeans’ proposed the enforcement of the public service broadcasting and the promotion of European content on programming, while the ‘Americans’ were interested in the creation of independent media regulators. In response, media experts ‘were fascinated with Western concepts’ (Jakubowicz, as cited in Harcourt, 2003b, p. 319), and decided to implement the European model of regulation, since the implementation of the European *acquis communitaire* would facilitate accession to European Union membership.

### 2.5.3.2 The independence of NRAs

Strengthening cooperation between independent regulatory authorities in the broadcasting field is a recurring trend in recent policy recommendations. As seen in directives such as Directive 2010/12/EU

2. policy objectives emphasise EU coordination, especially in providing rules to shape technological developments, creating a level playing field for emerging audiovisual media, preserving cultural diversity, safeguarding media pluralism, and guaranteeing the independence of national media regulators.

The discussion of the independence of NRAs began in the 1998 with the European Commission’s Oreja Report (as cited in Herold, 2013), which drew attention to the ‘need for regulatory bodies for the audiovisual sector (…) independent from political power’. In 2005, ___

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provisions for independent media regulation were suggested in the revised Audiovisual Media Services Directive (AVMSD)³:

Regulators should be independent from national governments as well as from audiovisual media service providers in order to be able to carry out their work impartially and transparently and to contribute to pluralism. Close cooperation among national regulatory authorities and the Commission is necessary to ensure the correct application of this Directive. (Commission, 2005, Recital 47)

In addition:

Member States shall guarantee the independence of national regulatory authorities and ensure that they exercise their powers impartially and transparently.

National regulatory authorities shall provide each other and the Commission with the information necessary for the application of the provisions of this Directive’. (Art. 23b)

Although the revised Audiovisual Media Services Directive (AVMSD) does not require Member States to create independent regulators, the emphasis is on the freedom to ‘choose the appropriate instruments’ in establishing agencies ‘independent from market parties (…) able to foster plurality of different voices in the media market, and independent from political influence, to ensure journalistic freedom and objectivity’ (Herold, 2013, p. 266). Furthermore, the Council of the European Union supports the idea of protecting the media from political interference: ‘The independence of regulatory bodies from governmental influence is a vital condition for free and independent media to flourish […] [NRAs] should be free from direct political influence and should have a positive obligation to protect human rights, including freedom of expression’

The call for ‘independence of media supervisory authorities’ was made by the European Parliament through the motion on ‘the EU Charter: Standard settings for media freedom across the EU’ in March 2013. The resolution calls on both the Member States and the European Commission:

To make sure that legally binding procedures and mechanisms are in place for the selection and appointment of public media heads, management boards, media councils and regulatory bodies that are transparent, are based on merit and indisputable experience and ensure professionalism, integrity and independence, as well as maximum consensus in terms of representing the entire political and social spectrum, legal certainty and continuity rather than political or partisan criteria that are based on a ‘spoil and reward’ system linked to election results or are subject to the will of those in power; notes that every Member State should establish a set of criteria for appointing state media heads or boards, in line with the principles of independence, integrity, experience and professionalism; calls on the Member States to establish guarantees ensuring the independence of media councils and regulatory bodies from the political influence of the government, the parliamentary majority or any other group in society. (Article 2)

Little conceptual work has been done so far in assessing the regulatory independence of NRAs. The main contributions are presented in the following section.

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2.5.3.3 Typologies of NRAs for the audiovisual sector

Studying the direct links among institutional arrangements and independence of NRAs for the audiovisual sector is still a work in progress. Academic studies on categories of regulatory agencies for the audiovisual sector are scarce.

The most recent contribution is the collaborative volume *Media Regulators in Europe: A Cross-country Comparative Analysis* edited by Sousa, Trützschler, Fidalgo, and Lameiras (2013). This qualitative study covers 13 Western European countries and addresses issues such as institutional design, regulatory functions, legitimising values, performance, and funding mechanisms of national media regulators.

The most extensive contribution is the professional Indireg Report, prepared for the European Commission by the Hans Bredow Institute for Media Research in 2011. The report covers audiovisual regulators in 43 countries around the world and proposes the analysis of independence by looking at five dimensions: ‘status and powers’, ‘financial autonomy’, ‘autonomy of decision-makers’, ‘knowledge’ and ‘accountability and transparency’. The report fails in the attempt to create typologies of broadcasting regulators, due to ‘the very specific development paths of media regulation in different countries’. The authors argue that the project ‘turned out not to be successful, since there is no analytical necessity for regulatory settings in different countries to follow distinct patterns’ (Indireg Report, 2011, p. 254).

According to Stephan Dreyer, Senior Researcher at the Hans Bredow Institute for Media Research at the University of Hamburg:

> The objective to categorise types of regulatory bodies was a very small objective among others. (...) The report is quite brief in showing the outcome of the attempts to find categories of regulators. Independence obviously is too multi-dimensional to serve as a categorisation approach, and consists of many criteria that show a wide variety of implementation in the field of regulators. The insight in the end—at least for this specific report—is, that a categorisation is hardly possible from this perspective and, moreover, might not even contribute to the main objective to identify independence indicators. (...) The project aimed at identifying indicators, their validity and their—sometimes
ambiguous—direction of influence, not on categorisations of regulators. (Personal
communication, November 11, 2012)

In addition, preliminary work on institutional arrangements was also undertaken by Machet
(2002). The author advances several categories of NRAs, by looking at the appointment of heads
and the funding mechanisms of regulatory bodies. Five models of appointment are proposed: by
the executive (‘the Northern European model’), by legislative (‘the Central European model’), by
both executive and legislative (‘the French model’), by the judiciary, social movements and
groups/civil society (‘the German model’). Also, three models of funding are identified: state
budget, licence fees or advertising revenue, and a mixed system.

In view of all that has been mentioned so far, it is quite obvious that the major gap in prior
research is the lack of a coherent typology of National Regulatory Authorities for the audiovisual
sector in Europe. Based on the above background, the first objective of this dissertation is to
address the observed gap by providing a revised typology of NRAs for the audiovisual sector in
Europe. In this regard, the cross-country comparative component of this study aims to answer
two research questions:

- What are the main institutional characteristics of national media regulators in
  Europe?
- To what extent do national media regulators share similarities or display
differences with regard to the institutional setups?

The purpose of this approach is to complement current classifications by categorising and
displaying standard groups of regulatory bodies. This dissertation intends to provide an extensive
comparative analysis of the institutional framework of media regulators, by looking at the
structural and organisational design, funding mechanisms, means of accountability, and the
agencies’ competencies.

Furthermore, based on the aforementioned five indicators, I am proposing an empirical model for
assessing the formal independence of national media regulators. As pointed out previously (see
Section 2.2), the central argument of this dissertation is that formal or de jure independence from
political control is a key variable in explaining the efficient functioning of the audiovisual
regulators. In the following section I review the previous attempts to explain and measure regulatory independence.

2.6 Explaining independence

This section is devoted to the existing literature on NRAs and in particular the claim of independence for NRAs. It explores and summarises the exiting indicators and methodologies employed to assess the independence of regulatory agencies, along with recent interdisciplinary findings in the literature.

2.6.1 Media independence and press freedom

For scholars in media and communication studies, media independence and media freedom are interchangeable concepts, often employed when contextualising issues such as press freedom, rights and regulations across the world. As an example, Gunaratne (2002) considers the concept of press freedom, examining the key definitions in the literature. Press freedom is associated with the five characteristics of the Libertarian Theory of the press: competition; heterogeneity; autonomy; openness, and selfishness. Press freedom also requires low levels of government intervention or censorship, the ability to serve as the Fourth Estate, and free market conditions.

Gunaratne (2002) proposes an approach to measuring press freedom at three levels: the world system, the nation-state and the individual:

At the world system level, the criteria (...) should include government involvement and interference in the mass media, the technological ability of center-clusters to dominate the global information flow, as well as the compulsions of the commercial conglomerates that affect media content. At the nation-state level, the criteria should include both governmental and commercial compulsions on content of the endogenous media, as well as the degree of accessibility of exogenous media. At the individual level, the criterion should be (...): ‘Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers’. (p. 364)
Apart from the scholarly approaches on measuring media independence and press freedom, several international organisations have been actively engaged in lobbying and enforcing independence worldwide. These organisations include the International Research and Exchanges Board (IREX), International Standardisation and Accreditation Services (ISAS), BBC World Service Trust, Freedom House (FH), World Bank (WB), the United Nations Educational, Scientific and Cultural Organisation (UNESCO), Reporters Without Borders (RSF), European Federation of Journalists (EFJ), Transparency International (TI), and the Global Forum for Media Development (GFMD).

For example, since 1979, Freedom House has been conducting press freedom surveys worldwide, classifying the media as ‘free’, ‘partly free’ or ‘not free’. Indicators taken into account are government ownership of the media, government censorship, restrictions on criticism and other forms of government pressure on the media. Furthermore, UNESCO (Puddephatt, 2008) proposes a different set of indicators of media independence, media development and press freedom which include: the system of regulation and control, the plurality and transparency of ownership, media as a platform for democratic discourse, professional capacity building and supporting institutions, and infrastructural capacity.

### 2.6.2 Defining regulatory independence

There is a rich scholarship on how independence has been incorporated in regulatory agencies for the utility sectors such as electricity, gas, posts, rail and telecommunications (Cambini & Rondi, 2010; Bianculli et al., 2013; Égert, 2009; Gilardi, 2002; Hanretty & Koop, 2010, 2013; Jordana et al., 2011; Maggetti, 2007). The attempt to understand what independence is has led to a multitude of viewpoints and definitions.

For example, Smith (1997) suggests that three elements are fundamental to a definition of the regulatory independence of utility regulators. The first of these is ‘an arm’s-length relationship with regulated firms, consumers, and other private interests’; the second is ‘an arm’s-length relationship with political authorities’, and finally, Smith points out that ‘the attributes of organizational autonomy—such as earmarked funding and exemption from restrictive civil
service salary rules—necessary to foster the requisite expertise and to underpin those arm’s-length relationships’ (Note no. 127).

In line with this definition, Fesler understands regulatory independence as ‘independence of control by the governor and legislature, independence of control by utility companies, and independence in the sense of integrity and impartiality’ (Fesler, as cited in Mitnick, 1980, p. 69).

In the literature, there are important distinctions between the independence from government, independence from stakeholders, independence in decision-making, and the autonomy of the organisation (Johannsen, 2003).

Independence from government refers to the regulator’s formal rights to make independent decisions, without governmental constraints or pressures (Stern, 1997; Stern & Holder, 1998; Majone, 1996). The measures of protecting the regulatory independence are summarised by Johannsen (2003): measures addressing the risk of informal pressure from the political authorities, including non-revocable appointments of regulators for fixed terms to prevent appointment and dismissal on political grounds; measures relating to the organisational autonomy, such as having maximum control of the input of resources, control of appointment, allocation, promotion, dismissal and salary policies in relation to the regulatory authority’s staff (p. 23).

Independence from stakeholders is threatened when there is a risk of regulatory capture by the regulated parties, if the industry uses asymmetric information and misinformation to manipulate the regulator, or when the regulator’s independence is compromised by the regulator’s private interest in the sector (Johannsen, 2003). Measures limiting these risks are: setting standard rules regarding impartiality and disqualification; formal rules prohibiting informal discussions of pending cases with any of the parties involved are often part of the general legislation regarding good governance; formal rules prohibiting the employment of regulators in the regulated industry both before, during and after their term in order to increase the relational distance between the regulator and the regulated parties (Johannsen, 2003, p. 22).

Independent decision-making as a third dimension of regulatory independence relates to the regulatory competencies of agencies. There is a significant difference between a regulatory
agency that has decision-making powers, and an agency that only has consultative powers. Finally, the autonomy of the organisation is related to the control of resources, assignment, promotion and salary policies (Larsen, Pedersen, Sørensen, & Olsen, 2006).

The main focus of this dissertation is the regulatory independence from governments, with an emphasis on formal independence. Previous empirical and theoretical contributions established the relationship between NRAs’ independence and elected politicians (Gilardi, 2008). However, as Thatcher (2005) observed, little attention has been given to cross-country comparative analyses of institutional setups.

Much of the current literature on the independence of regulatory authorities pays particular attention to the major distinction between formal (de jure) and actual (de facto) independence (Alesina & Summers, 1993; Baldwin, Cave & Lodge, 2010; Bianculli et al., 2013; Yesilkagit & Christensen, 2010; Gilardi, 2002, 2008; Hanretty & Koop, 2013; Hayo & Voigt, 2007; Maggetti, 2007; Maassen & Van Den Bosch, 1999; Wonka & Rittberger, 2010).

It is necessary here to clarify exactly what is meant by formal and actual independence. In the literature, the term ‘formal independence’ is used to refer to ‘the product of laws and statutes prescribing the institutional design and safeguards of a regulatory body’ (Indireg Report, 2011, p. 28). Whereas formal refers to legal requirements for independence, the notion of ‘actual independence’ refers to the effective independence of agencies during their day-to-day regulatory activities ‘without receiving and acting on the basis of instructions, threats or other inducement from politicians’ (Hanretty & Koop, 2012, p. 199).

Various measurements of independence have been proposed. The empirical assessment of independence originates from methodologies developed to study central banks, as will be detailed in the following sections of this chapter.

2.6.3 Formal and informal independence

Empirical assessments of de jure and de facto independence originate in methodologies developed to study Central Banks (Alesina & Summers, 1993; Bernhard, 1998; Cukierman, 2008; Cukierman, Web, & Neyapti, 1992; Forder, 2005; Gilardi, 2005a; Hayo & Hefeker, 2002;
McNamara, 2002). Central Banks’ independence comprises two elements: political independence, that is ‘the ability to select policy objectives without influence from the government’, and economic independence, which is ‘the ability to use instruments of monetary policy without restrictions’ (Gilardi & Maggetti, 2011, p. 202).

The importance of studying the formal independence of regulatory agencies is underlined by Hanretty and Koop (2012):

Formal independence is worth studying if we are interested in why politicians delegate power: drafting and passing a statute is the ultimate act in delegating power, in both senses. Formal independence is also worth studying if we are interested in regulators’ independence in real life. Only by measuring formal independence properly can we test whether actual independence is strongly affected by formal independence, or whether it depends more on national legal-administrative traditions. If formal independence does matter strongly for actual independence, and if more independent agencies deliver better policy, then there is value in studying formal independence. (p. 199)

By way of illustration, the requirements of de jure independence are formulated in legal documents such as constitutions, legislation governing agencies’ activities, and rules of procedures (Gilardi, 2002, 2005; Hanretty & Koop, 2012). A great deal of previous research into formal independence has focused on the formal safeguards and institutional indicators that can enhance independence (Gilardi, 2002; Thatcher, 2005; Smith, 1997). For instance, Thatcher (2005) advances three institutional requirements for agencies’ formal independence: the powers and responsibilities should be conferred by public law, the agency should be structurally separated from ministries, and the members should not be directly elected nor formally managed by elected officials.

Another example of what is meant by formal safeguards of independence is suggested by Smith (1997). According to this author, ‘insulation from improper influences and measures to foster development and application of technical expertise are mutually supporting: technical expertise can be a source of resistance to improper influences, and organisational autonomy helps in
fostering (and applying) technical expertise’ (Note no. 127). Smith (1997) illustrates this point clearly by summarising key formal safeguards of independence:

- provisions for a distinct legal mandate, free of ministerial control;
- professional criteria for appointment;
- the involvement of both the executive and the legislative branches in the appointment process; fixed terms for appointment and rules for dismissal;
- staggered terms so that they do not coincide with the election cycle, and, for a board or commission, staggering the terms of the members;
- exemption of the agency from civil service salary rules that make it difficult to attract and retain well-qualified staff;
- providing the agency with a reliable source of funding, usually earmarked levies on regulated firms or consumers. (Note no. 127)

However, even though regulatory agencies may enjoy high levels of formal independence in their relationship with the government, in practice, *de jure* independence does not always determine *de facto* independence (Acemoglu & Robinson, 2006; Hayo & Voigt, 2007; Ingold, Varone, & Stokman, 2013; Maggetti, 2007, 2012).

The term actual or *de facto* independence is generally understood to mean ‘the effective independence of agencies as they manage day-to-day regulatory actions’ (Maggetti, 2012, p. 38). As Maggetti demonstrates, ‘the formal independence of agencies, as granted by statutory prescriptions, has a contingent impact, together with other conditions, but does not fully determine the level of *de facto* independence of IRAs’ (2012, p. 181).

The ‘other conditions’ that are proven to determine the actual independence of regulatory agencies are political salience and policy complexity (Epstein & Segal, 2000; Ringquist, Worsham, & Eisner, 2003), the age of the agencies, membership of European networks, and the number of veto players in the polity (Coen & Thatcher, 2008; Edwards & Waverman, 2006; Maggetti, 2007; Schneider, 2011; Thatcher, 2002a; Tsebelis, 1995), the structural design, the size of the regulatory agencies, and the country’s politico-administrative tradition (Christensen &
The next section describes the previous empirical tests on regulatory independence.

2.6.3.1 Summary of existing indicators and methodologies

As previously mentioned, regulatory independence is measured with methodologies developed for studying central banks. Economist scholars have been devoted to construct indices of central banks formal or legal independence, in order to assess the actual independence of central banks. As Johnson (2008) puts it:

A central bank is considered more economically independent if it controls its own budget and salaries, if it does not conduct banking supervision, and if it possesses a wide range of monetary policy instruments. The underlying presumption is the more independence, the better. (p. 2)

One of the major concerns was whether, for instance, higher central bank independence has an impact on macroeconomic performance. Yet, results have shown that in the OECD countries inflation is negatively correlated with the measures of legal independence of the central bank (Alesina & Summers, 1993; Cukierman et al., 1992; Cukierman, 2008; Eijffinger, Schaling & Hoeberichts, 1998; De Haan, Masciandaro, & Quintyn, 2008; Hayo, 1998; Kissmer & Wagner, 2004; Neyapti, 2001).

Evidence from the prior studies shows that central banks in transition states have higher levels of formal independence in comparison to central banks from developed economies (Cukierman, Miller & Neyapti, 2002; Dvorsky, 2000; Maliszewski, 2000; Neyapti, 2001; Radzyner & Riesinger, 1997). Johnson (2008) explains why post-communist governments granted significant independence to their central banks in the early 1990s, arguing that:

The pro-CBI [Central Bank Independence] international consensus at that time, the uncertainty of the transition, and the drive to establish economic sovereignty explain the rapid initial spread of CBI across the post-communist states. In particular, the
international consensus encouraged post-communist governments seeking solutions to new problems to borrow components of existing central bank legislation primarily because of its symbolic and ready-made qualities, not because of an understanding and acceptance of CBI’s domestic economic implications. (pp. 5-6)

Systematic empirical studies on central banks independence were undertaken by Alesina (1988), Cukierman (1992, 1993), Grilli, Masciandaro, and Tabellini (1991), and Eijffinger, Schaling, and Hoeberichts (1998). These authors have built the most widely used indices of central banks’ legal independence, taking into account the statutory prescriptions regarding the appointment of heads and board members, the approval requirements for monetary policy decisions, the prior definition of monetary objectives in the central bank statute, and the budgetary arrangements.

As an example, Cukierman (1993) proposes an index of independence based on three dimensions. The first one relates to formal rules and laws. The second dimension measures the informal independence by looking at the turnover of directors of central banks. Lastly, a set of questionnaires addressed to the monetary policy experts of central banks was used to investigate the levels of central banks’ independence.

The final formal independence index introduced by Cukierman (1993) consists of three groups of variables: the chief executive officer (appointment, dismissal, term of office); the policy formulation (conflicts between government and central banks, the degree of participation of the central bank in the development of monetary policies and budgetary processes); final objectives (final objectives of the central bank as formally defined), and limitations and lending (legal restrictions for loans from the public sector (p. 274).

Various scholars adapted the central banks methodology and developed universal indices in order to assess cross-country and cross-sector variations in independence (Gilardi, 2002; Hanretty, Larouche, & Reindl, 2012; Oliveira, Machado, Novaes, Martins, Ferreira, & Beatriz, 2005; Gutiérrez, 2003a; Edwards & Waverman, 2006; Gual & Trillas, 2006; Montoya & Trillas, 2007). This is exemplified in the work undertaken by Gutiérrez (2003b), who examines whether performance in the telecommunications sector is determined by independence. The main independence variables in the index he proposes are: autonomy regarding the budget and the
turnover of heads of regulators; mechanisms for dispute resolution between regulator and operators; the clear role of regulators for imposing tariffs and fines, and transparency mechanisms in presenting the regulatory decisions.

The most important contribution in the study of the independence of regulatory agencies has been made by Gilardi (2002, 2008). The author drew inspiration from the independence index developed by Cukierman et. al (1992) and operationalised the formal independence of regulatory agencies in 17 Western European by looking at five indicators: the status of the agency head, the status of the management board, relationships with government and parliament, financial and organisational autonomy, and regulatory competencies. Gilardi (2008) explains that:

With respect to the status of the agency head and board, it makes a difference if they are appointed for a renewable term by a minister who has the power to dismiss them, or if they are selected jointly by government and parliament for a non-renewable fixed term, with no possibility of early dismissal. The agency is certainly more independent in the latter case than in the former, all else equal. Similarly, the extent of financial and organisational autonomy influences the independence of a regulator. This will certainly be higher if the agency can conduct an autonomous personnel policy and does not have to rely on the government to finance its activities than if the size and composition of staff and the budget are under the control of the government. Cutting budget and staff, or influencing its composition, can be an effective means for a government to limit the effectiveness of an agency in the event that it disapproves of its policies. (p. 56)

Criticism of Gilardi’s index was put forward in the literature. Hanretty and Koop (2012) argued that Gilardi’s methodology has several flaws involving the conflation of breadth of powers with degrees of independence, the conflation of the absence of provisions prohibiting an action with permissibility of that action, the assumed order and interval level of the response categories, and the arbitrary weighing of the scores of each indicator.

However, as previously stressed, formal independence does not necessarily imply independence in practice. Based on a sample of 16 regulatory agencies across three sectors (banking and
finance, competition and telecommunications) in ten Western European countries, Maggetti (2012) shows that:

Formal independence is neither a necessary nor a sufficient condition for explaining variations in IRAs [Independent Regulatory Agencies]’ *de facto* independence from political decision makers and regulatees; instead, their life cycle, their inclusion in networks or regulators, and the presence of veto players have a crucial positive impact. (p. 4)

Proxies of *de facto* independence include: the politicisation of appointments, the age of the regulatory body, the extent to which the agencies’ decisions have been reversed, the turnover of the members of the highest decision-making organ, the number of veto players, or the participation in networks of agencies at the European level (Gilardi, 2008; Thatcher, 2005).

The evidence presented thus far supports the idea that regulatory independence varies across countries and sectors. However, with the exception of very few attempts (Hanretty, 2010), no empirical measurements have yet been done to assess the variation in independence of National Regulatory Authorities for the audiovisual sector in Europe.

Hanretty’s (2010) study focuses on the nexus between *de jure* (measured with variables such as sanctioning and appointments) and *de facto* independence of 36 public broadcasters worldwide. The author shows that a higher level of formal independence results in a high degree of actual independence, when taking into account the size of the market news (p. 75). Hanretty also observes that *de facto* independence is not influenced by the partisanship of the bureaucracy or the polarisation of the party system.

As mentioned above, the lack of empirical data for national media regulators represents a major gap in the scholarship. In this regard, this dissertation improves and complements current research by addressing this important empirical void. As stressed in the previous sections, the first objective of this study was to provide a revised typology of the NRAs for the audiovisual sector in Europe. Based on the revised typology of institutional arrangements, the second purpose of this study is to provide an empirical assessment of the cross-country variation in formal independence of national media regulators. To do so, I advance a new measurement
model of formal independence, by replicating the Gilardi (2008) index of formal independence, which has not been previously tested on the audiovisual regulators.

The empirical component of this dissertation aims to answer the third research question:

\textit{Does the formal independence of national media regulators vary across countries?}

Prior work on institutional design characteristics and the available indices of formal independence represent an important starting point for measuring the variation in formal independence of national media regulators. In line with previous empirical findings, and taking into account the institutional specificities of regulatory agencies for the audiovisual sector, the first hypothesis proposed in this study advances that:

\textit{Hypothesis 1: Formal independence of national media regulators varies across countries.}

Assuming there will be cross-country variation in the independence of regulatory agencies’ independence, I aim to look for explanatory factors underlying such differences. Based on both original hypotheses and on previous contribution, on the one hand, I propose, firstly, that there are causal relationships between the media systems configuration and the independence of regulatory agencies. Testing this assumption is important, since the media systems theory developed by Hallin and Mancini (2004) has never been verified on a sample that includes the regulatory agencies for the audiovisual sector.

Secondly, I suggest that there are causal relationships between the political systems configuration and the independence of regulatory agencies. Political explanations consider that the independence of regulatory agencies is an outcome of national administrative traditions (Perez-Diaz, 1993; Pollitt & Bouckaert, 2000). Again, this hypothesis has never been verified on a sample of national media regulators.

Therefore, this dissertation builds on the two taxonomies as proxies to examine the effects of media systems and the characteristics political systems on regulatory agencies’ independence. The forthcoming units of this chapter introduce the two theoretical frameworks employed.
2.7 Explaining the independence of NRAs for the audiovisual sector

Institutional design matters when delegating powers to regulatory agencies. However, in the study of national media regulators, relatively few studies have dealt with the regulatory independence derived from the institutional structure (Färdigh, 2010; Hanretty, 2010; Jakubowicz, 2007). Potential explanatory factors such as national media traditions or national administrative traditions have been hypothesised (Hallin & Mancini, 2004), but have never been tested in order to see whether agencies’ independence is actually influenced by these features.

Is there any interaction between media systems and political systems characteristics and the independence of national media regulators? How do differences across media systems explain the cross-country variations in formal independence of national media regulators? Does a particular type of media system facilitate more, or less, regulatory independence? How do differences across political systems explain the cross-country variations in formal independence of national media regulators? Do the government institutions play a role in shaping the institutional design of national media regulators? Why should separation of powers be of importance for media regulation? Does a multiparty system facilitate more, or less, regulatory independence?

Derived from previous work, these unexplored questions address whether the constellations of media systems and political systems influence the degree of independence of national media regulators across Europe. The third objective of this dissertation is a test of the two alternative explanations—the configuration of both media systems and political systems—for the formal independence of NRAs for the audiovisual sector.

2.7.1 Media systems as proxies of regulatory independence

There is a growing body of literature that acknowledges the importance of studying the media systems typologies and their potential influence on the structural design and independence of media regulators (Hallin & Mancini, 2004; Hanretty, 2010). However, little systematic research has been done thus far, and the scarcity of comparative works is the result of numerous conceptual and methodological inconsistencies in prior research (Livingstone, 2003; Norris, 2009).
Chapter 2

At a theoretical level, comparative analyses on media systems, institutional design and regulatory independence are rare. From a methodological perspective, there is a lack of quantitative data on the regulatory independence of the NRAs for the audiovisual sector. Most of the studies focus predominantly on single-country or single-sector studies, rather than cross-comparative multiple case studies. As Hanretty (2010) observes, understanding media systems from an institutionalist perspective was suggested in the literature, but not systematically investigated. In addition, ‘much ostensibly comparative work is primarily based on the experiences of either Britain or the United States’ (p. 80).

Various definitions of media systems exist, since this is one of the ‘concepts most extensively used in the literature’ (Sonczyk, 2009). This concept was firstly introduced in the book *Four Theories of the Press* by Siebert, Peterson and Schramm (1963). The authors distinguished between four media systems: the authoritarian media system, the liberal media system, the socially responsible media system, and the Soviet media system. More recently, Sonczyk (2009) defined the media system as being:

> Comprised of institutional structures and final products which recipients use directly and frequently as they are addressed to them (newspapers, journals, radio and TV programmes) as well as entities (such as press agencies, distributors) with which people are less familiar but which, nevertheless, are crucial to the functioning of the media system. (p. 1)

Alternatively, Ognyanova and Monge (2013) argue that media systems comprise media organisations, the content they produce, and media consumers: ‘The media industry sector is characterized by links among news organisations. Media content is grounded in ties between key terms, concepts, frames and news stories. The third part of the media system, audiences, consists of connected news consumers’ (p. 3).

A groundbreaking typology of media systems from a comparative perspective was put forward by Hallin and Mancini (2004), as will be discussed in the next section.
2.7.1.1 Typological approaches to media systems

The political control and the independence of media regulators as functions of media and political systems were introduced by Hallin and Mancini (2004) in their seminal study *Comparing Media Systems*. Although this work is largely exploratory, more for formulating concepts than hypothesis-testing and causal inference (Downey & Stanyer, 2010), this study is considered to be the most influential in the comparative media field. The authors underline that:

> Our analysis is based primarily on existing published sources and we make only very limited attempts at new empirical research. It is our intent instead to propose a theoretical synthesis and a framework for comparative research on the media and political systems. (p. 16)

Hallin and Mancini advanced the idea that there are relationships among media and political systems, which vary significantly in form, and which play a role in determining the political independence of public service broadcasters. The authors explore and classify media systems in 18 countries within North America and Western Europe (as displayed in Table 1), focusing on several media and political variables. According to specific constellations of the variables, Hallin and Mancini conceptualised three media models: the Polaris-Pluralist model, the Democratic-Corporatist model, and the Liberal model.

<table>
<thead>
<tr>
<th>Countries</th>
<th>Media systems</th>
<th>Polaris-Pluralist model</th>
<th>Democratic-Corporatist model</th>
<th>Liberal model</th>
</tr>
</thead>
<tbody>
<tr>
<td>France</td>
<td></td>
<td>Austria</td>
<td>Belgium</td>
<td>Canada</td>
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<tr>
<td>Greece</td>
<td></td>
<td>Denmark</td>
<td>Ireland</td>
<td>Ireland</td>
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<td>Italy</td>
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<td>UK</td>
<td>UK</td>
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<td>Spain</td>
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<td>Germany</td>
<td>USA</td>
<td>USA</td>
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<td>Portugal</td>
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<td></td>
<td>Switzerland</td>
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</tr>
</tbody>
</table>

*Source: Hallin & Mancini, 2004*
The media systems’ variables proposed by Hallin and Mancini (2004) are: the establishment and growth of the newspaper industry; the degree of parallelism between politics and the mass media; the level of professionalism in journalism, and the relationship between the government and the media.

To better understand the factors shaping the media systems, I will briefly summarise them. The structure of media markets refers to development of the mass circulation press. Political parallelism reflects ‘the degree to which the structure of the media system parallels that of the party system’ (p. 27). Journalistic professionalism refers to three dimensions: autonomy, distinct professional norms, and public service orientation. The role of the state in shaping the media systems is related to matters concerning media ownership, funding, and regulation. Table 2 displays the media systems characteristics in relation to four media variables.

<table>
<thead>
<tr>
<th></th>
<th>Polarised-Pluralist Model</th>
<th>Democratic-Corporatist Model</th>
<th>Liberal Model</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political parallelism</td>
<td>High political parallelism; parliamentary or government model of broadcast governance; politics-over broadcasting systems.</td>
<td>External pluralism; shift toward neutral commercial press; politics-in-broadcasting system with substantial autonomy.</td>
<td>Neutral commercial press; professional model of broadcast governance–formally autonomous system.</td>
</tr>
<tr>
<td>Role of the state in media system</td>
<td>Strong state intervention; periods of censorship; ‘savage deregulation’ (except France).</td>
<td>Strong state intervention but with protection for press freedom; press subsidies, particularly strong in Scandinavia; strong public-service broadcasting.</td>
<td>Market dominated (except strong public broadcasting in Britain, Ireland).</td>
</tr>
</tbody>
</table>

Source: Hallin & Mancini, 2004
By drawing on the concepts of media systems, Hallin and Mancini (2004) have also identified a number of variables that determine the political context of the media: political history; consensus versus majoritarian government; individual versus organised pluralism, and rational-legal authority.

In their normative study, the two scholars show that features of media systems correspond to the two dimensions of democracy defined by Lijphart (1999): ‘Political system characteristics are manifested more or less directly in media structures, as for example majoritarian or consensus patterns of government are reflected in the organisation of public broadcasting institutions’ (Hallin & Mancini, 2004, p. 296). The majoritarian model features a majority cabinet, a two-party system, a disproportional system of elections, a unitary and centralised government, and unicameralism. Diametrically opposed, consensus democracy tends toward power sharing, a broad coalition cabinet, a multi-party system, a proportional electoral system, a federal and decentralised government, and a strong bicameralism.

Hallin and Mancini (2004) argue that majoritarianism tends to be associated with ‘the notion of the journalist as a neutral servant of the public as a whole, rather than as a spokesperson of a particular political tendency or social group’ (p. 51). On the contrary, the consensus system of government is ‘more likely in the media system of multi-party polities, along with other characteristics of political parallelism’ (id.).

Individual pluralism reflects the nature of political representation of governing institutions, individual citizens, and other competing ‘special interests’ (ibid., p. 53). Organised pluralism refers to the way in which political representation is centered around ‘strongly institutionalised social groups representing different segments of the population’ (id.).

The rational-legal authority and political clientelism are considered to be two distinct components in shaping the political context of media systems. The first relates to the form of governance maintained by ‘formal and universalistic rules of procedure’. In contrast, political clientelism focuses on individual interests and private relationships. The regulatory independence and the autonomy of public broadcasters and regulatory agencies is further emphasised by Hallin and Mancini (2004):
Where rational-legal authority is strongly developed, these institutions, similar to other public agencies, are likely to be relatively autonomous from control by government, parties, and particular politicians, and to be governed by clear rules and procedures. (…) But where rational-legal authority is strong, this will always be balanced more or less strongly by the professional autonomy of civil servants, including, in the case of public broadcasting, journalists. In countries where rational-legal authority is less strongly developed—principally, as we shall see, in Southern Europe—party control and penetration of public broadcasting and regulatory institutions tends to be stronger and deeper. (p. 56)

Finally, the distinction between moderate and polarised pluralism is defined by Hallin and Mancini (2004). Moderate pluralism is characterised by stronger tendencies toward the center, lower ideological differences between the political parties, greater acceptance of the political system, and a better chance of gaining consensus during political controversies. In contrast, polarised pluralism is characterised by the existence of significant anti-system political parties, low consensus and deep divides within the political landscape.

Table 3 outlines the five dimensions of the political contexts of media systems.

<table>
<thead>
<tr>
<th>Political history: patterns of conflict and consensus</th>
<th>Democraphic-Corporatist Model</th>
<th>Liberal Model</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late democratisation; polarised pluralism.</td>
<td>Early democratisation; moderate pluralism.</td>
<td>Early democratisation; moderate pluralism.</td>
</tr>
<tr>
<td>Consensus or majoritarian government</td>
<td>Both</td>
<td>Predominantly consensus</td>
</tr>
<tr>
<td>Organised pluralism; strong role of political parties.</td>
<td>Organised pluralism; segmented pluralism; democratic corporatism.</td>
<td>Individualised representation rather than organised pluralism.</td>
</tr>
<tr>
<td>Role of the state</td>
<td>Dirigisme, strong involvement of state and parties in economy; periods of authoritarianism.</td>
<td>Strong welfare state; significant involvement of state in economy.</td>
</tr>
</tbody>
</table>

*Source: Hallin & Mancini, 2004*

On this basis, Hallin and Mancini establish three ideal types of media models.

The *Democratic-Corporatist Media System* features the following elements: early development of press freedom and the newspaper industry; very high newspaper circulation; high political parallelism mixed with high journalistic professionalism; strong commercial media; state intervention in the media sector; moderate pluralism, and strong rational-legal authority (pp. 73-74). Public broadcasting systems tend to follow the parliamentary or civic/corporatist model with parties and organised social groups involved in broadcast governance. Professional autonomy in broadcasting is high. The public service radio and television have strong tradition.

The *Liberal Media System* includes countries characterised by: early consolidation of liberal institution; early industrialisation; limited state intervention; strong rational-legal authority; moderate and individualised pluralism and majoritarianism; strong development of a commercial press and commercial broadcasting; strong professionalisation of journalism, and a low level of political parallelism (id.).

The *Polarised-Pluralist Media System* features the following characteristics: low levels of newspaper circulation; a tradition of advocacy reporting; instrumentalisation of privately owned media; politicisation of public broadcasting and broadcast regulation; limited development of journalism as an autonomous profession; delayed development of liberalism; weaker development of rational-legal authority; high political parallelism, and a prominent role for the state as an owner, regulator, and funder of media (id.).

Post-communist countries in Eastern Europe were not included in Hallin and Mancini’s seminal study. In terms of the structural dimensions of media systems, many characteristics of the post-socialist media systems are found to be similar to the Polarised-Pluralist model (Dobek-Ostrowska, 2012; Peruško, 2013; Balčyiene, 2009; Curran & Park, 2000; Terzis, 2007). Among
the main features of the characteristics of media systems in Eastern and Central Europe are: early or late democratisation; little advanced modernisation and a weak rational-legal authority; the strong role of the state; a high political clientelism; a political culture favouring a strong role of the state and control of the media by political élites; limited development of the mass circulation press; the relative weakness of common professional norms; a lack of social embeddedness of the idea of public service broadcasting, and a lack of a social constituency willing to support its autonomy and independence (Statham, 1996; Marletti & Roncaloro; 2000; Papatheodorou & Machin, 2003; Hallin & Papathanassopoulos, 2002).

Hallin and Mancini’s classification of media systems has been subject to critical review (McQuail, 2005; Norris, 2009). Main issues concern the features of the models and the identification of countries within them, taking into account their degree of heterogeneity (Lund, 2007); the temporal dimensions of the media models and the questions regarding the complexity of historical change and system formation (Bardoel, 2007); and the explanatory range and scope of media systems with an emphasis on alternative variables such as country size and regionalism, or religion (Hjarvard, 2008; Humphreys, 2011; Puppis, 2009; Thussu, 2009).

2.7.1.2 Public broadcasters versus national media regulators

The three media models—Polarised-Pluralist, Democratic-Corporatist, and Liberal—are considered to reflect the different degrees of political independence of public broadcasters, which by approximation can frame the degrees of political independence of NRAs.

Four basic regulatory models of public broadcasting, with different levels of independence, were identified by Hallin and Mancini (2004). In the government model, public broadcasting is directly controlled by the government or by the political majority. Examples of countries within this model are Greece, Portugal, and Spain.

Many European countries approached this model in an early phase of the history of broadcasting, but most eventually developed alternative institutional forms that would insulate public service broadcasting to a substantial degree from control by the political majority. (...) Directors of public broadcasting are appointed by Parliament, not directly
by the government, but this in the end gives the majority party effective control. (Hallin & Mancini, 2004, p. 30)

The second regulatory model of public broadcasting is the professional one, where there is a strong tradition of political independence. Examples of countries within this model are the UK, Canada, the USA, Ireland, and the Scandinavian countries.

The third regulatory model of public broadcasting is the parliamentary or proportional representation model, which is representative of Italy. The control over public broadcasting is divided among political parties by proportional representation.

Finally, the fourth regulatory model of public broadcasting is the civic or corporatist model. In countries such as Germany, Austria, and the Netherlands, the control of public service broadcasting is distributed among various social and political groups.

Against this background, this dissertation examines the relevance of Hallin and Mancini’s taxonomy of media systems as an explanatory framework for the cross-country variation in formal independence of national media regulators. Although institutional aspects of media systems cannot be expected to be directly mirrored in the institutional design of NRAs, I derive a hypothesis from the aforementioned media models and I relate it directly to measurable characteristics of formal independence. Thus, I expect to confirm that:

Hypothesis 2: Differences across media systems explain the cross-country variations in formal independence of national media regulators.

The next unit of this chapter summarises the nexus between the characteristics of political systems and the independence of national media regulators, as illustrated in the current literature.

2.7.2 Political systems as proxies of regulatory independence

As pointed out in the introductory chapter of this dissertation, the interplay between media independence and democratic institutions elicits to the question which kind of institutional set-ups might strengthen or undermine the independence of the media. This section advances
theoretical arguments for explaining how political institutions in various political systems interact with regulatory processes and affect the regulatory agencies’ independence. The central argument is that the direct evidence of government influence and the institutional determinants of political systems, such as whether the system is presidential or parliamentary, play a central role in shaping regulatory independence.

A large body of literature in political science and political economy is studying the ‘effects’ that political institutions have on political and economic outcomes such as regulatory commitment, and economic performance or investment (Acemoglu & Johnson, 2005; Diermeier, Ericson, Frye, & Lewis, 1997; Levy & Spiller, 1994; Lewis-Beck & Stegmaier, 2000; MacKinnon, Cumbers, Pike, Birch, & McMaster, 2009; Przeworski & Limongi, 1993). Based on this literature, this dissertation intends to establish a missing intermediate link in the extant cross-country empirical analysis of the independence of NRAs. To date, there have been limited qualitative and quantitative studies of the independence of regulatory agencies for the audiovisual sector as an outcome of political and institutional factors.

Institutions are defined by North (1990) as ‘the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction’ (p. 3). As Acemoglu, Johnson, and Robinson (2005) argue, political institutions, which include various forms of government, determine how key actors play with de jure (institutional) and de facto political power:

   Political institutions are collective choices, the distribution of political power in society is the key determinant of their evolution. This creates a tendency for persistence: political institutions allocate de jure political power, and those who hold political power influence the evolution of political institutions, and they will generally opt to maintain the political institutions that give them political power. (pp. 391-392)

To illustrate how political institutions and regulatory processes determine different regulatory outcomes, Levy and Spiller (1994) examined the economic performance of the telecommunications sector. The authors stressed that regulatory performance depends on three complementary mechanisms: ‘substantive restraints on the discretion of the regulator, formal or
informal constraints on changing the regulatory system, and institutions that enforce the above formal-substantive or procedural-constraints’ (p. 202).

The nature of the regulatory design, that is regulatory governance and regulatory incentives, is determined by the institutional endowment of the state. Levy and Spiller (1994) define the institutional endowment of a nation as a mix of five elements: the legislative and executive institutions; the judicial institutions; the normative aspects imposed to constrain the action of individuals or institutions; the ability to confront and balance the divergent social interests within a society, and the administrative capabilities of the state (p. 206).

As Levy and Spiller (1994) emphasise, there is a link between the institutional background of a country and the nature of the regulatory regimes and regulatory performance. By exerting pressure, legislative and executive institutions can determine the nature of the regulatory problems, and thus the regulatory outcomes. Governmental authority over the regulated sectors can be reduced through the separation of political powers, a written constitution, two legislative houses, an electoral system ‘calibrated to produce either a proliferation of minority parties or a set of parties whose ability to impose discipline on their legislators is weak’, and a federal structure of power (Levy & Spiller, 1994).

The authors identify how different types of legislative and executive institutions influence the nature of the regulatory regimes. It follows that:

In some parliamentary systems, the executive has substantial control over both the legislative agenda and legislative outcomes. (...) If legislative and executive powers alternate between political parties with substantially different interests, specific legislation need not constitute a viable safeguard against administrative discretion, as changes in the law could follow directly from a change in government. Similarly, if the executive has strong legislative powers, administrative procedures and administrative law by themselves will not be able to constrain the executive, who will tend to predominate over the judiciary in the interpretation of laws. (...) A strong and independent judiciary could serve as the basis for limiting administrative discretion. (Levy & Spiller, pp. 207-208)
Before incorporating the previous findings in the literature on the nexus between regulatory regimes, types of legislative and executive institutions, and independence as a regulatory outcome, I will briefly discuss the political systems model as a useful explanatory framework.

According to David Easton’s (1957) interpretation, a political system consists of activities and interactions related to the authoritative allocation of values within the society. Easton suggests that the major attributes of political systems are the inputs and the outputs. The inputs are the political actions (demands and support), whereas the outputs represent the political decisions or policy, with ‘consequences both for the system and for the environment in which the system exists’ (Easton, 1957, p. 384).

The following section presents the current classifications of political systems, looking at the types of executive, legislative, electoral and party system structures.

### 2.7.2.1 The classification of executive systems

Following Colomer’s (2006) classification, five basic constitutional models are identified within the literature: the monarchy and the constitutional monarchy models; the parliamentary model, and the presidentialism and semi-presidentialism models.

Accordingly, in the constitutional monarchy model, a one-person non-elected monarch has executive powers, while a multiple-person elected assembly has legislative powers. In a monarchy, the executive, legislative, and judicial bodies are subordinate to the monarch, and the constitution is subject to royal decree or amendment.

In the parliamentary regime, the head of state (either a president or a hereditary monarch) and the chief executive are two separate offices. Lijphart (1999) divided parliamentary democracies into two different systems: the Westminster, where the parliament is the sovereign institution, and the Consensus, which implies powers divided between the chief executive and the legislative branch.

In a presidential system, the head of the state is also the head of government. The president has veto power over legislation, unconstrained powers to appoint and remove members of the
cabinet, legislative initiative, the right to dictate legislative decrees, administrative authority, discretionary emergency powers, and to suspend constitutional guarantees.

In semi-presidential governments, the presidency and the assembly are elected separately, but it is the assembly that appoints and can dismiss a prime minister, as in a parliamentary regime. The president and the prime minister share the executive powers in a ‘governmental diarchy’.

2.7.2.2 The classification of electoral systems

Electoral systems have been classified by various scholars (Lijphart, 1994; Lijphart & Gorman, 1984; Rae, 1967; Taagepera & Shugart, 1989). According to Rae (1967) and Taylor and Johnston (1979), systems vary according to a number of key criteria including ballots (categorical and ordinal), districts (average magnitude), and formulae (majority, plurality, proportionality).

For instance, Lakeman’s (1954) classification distinguishes between majority systems, semi-proportional systems, and proportional systems. Bogdanor (1999) and Butler (1983) classify electoral systems in four categories: plurality systems; majority systems; semi-proportional systems, and proportional systems. Similarly, Norris (1997) categorised electoral systems as follows: majoritarian formulas (including plurality, second ballot, and alternative voting systems); semi-proportional systems (such as the single transferable vote, the cumulative vote, and the limited vote); proportional representation (including open and closed party lists using largest remainders and highest averages formula), and mixed systems (combining majoritarian and proportional elements) (p. 2).

According to Norris (1997), the focus of the majoritarian electoral system is effective governance, not representation of all minority views. Semi-proportional systems include the cumulative vote, where citizens are given as many votes as representatives, and where votes can be cumulated on a single candidate. In contrast to the majoritarian system, the proportional representation electoral system focuses on the inclusion of minority voices. The mixed electoral systems combine single member and party list constituencies.
2.7.2.3 The classification of party systems

Scholars of political parties have proposed various classifications of party systems (Blondel, 1968; Cox, 1997; Rae, 1967; Lipset & Rokkan, 1967; Sartori, 1976, 1994). The oldest distinctions are among one-party, two-party and multi-party systems. Classifications take into account the number of relevant parties and the degree of polarisation.

Blondel (1968) distinguishes between two-party systems, two-and-a-half-party systems, multi-party systems with a predominant party and multi-party systems without a predominant party. Sartori (1976) refines the prior categorisations and establishes a fourfold typology: predominant party systems; two-party systems; moderate pluralist systems, and polarised pluralism.

More recent classifications frequently distinguish between two-party and multi-party systems. This taxonomy of party systems is illustrated by Lijphart (1984, 1999), who differentiates between two-party systems, which are generally adversarial, and multiparty systems which are more likely to be consensual.

2.7.2.4 The classification of legislatures

Scholars have made a number of arguments to explain the distinction between bicameral and single chamber legislatures (Lijphart, 1999; Norton, 2004; Vatter, 2005).

Lijphart (1999) classifies legislatures along three variables: bicameralism/unicameralism, symmetrical/asymmetrical bicameralism, and congruent/incongruent bicameralism. A bicameral legislature comprises two independently selected chambers, described as the lower house and the upper house, each with some authority over new legislation. In contrast, the legislative power in unicameral legislature is concentrated in a single house or chamber.

Having defined what is meant by regulatory regimes and types of legislative and executive institutions, I will now move on to incorporate these elements in the context of the regulation of the audiovisual sector. As stressed earlier, little attention has been paid to the media regulatory independence as an outcome of political and institutional factors. With the exception of a few works (such as, for instance, Hanretty’s [2010] tests showing that neither de jure nor de facto
independence of public service broadcasters is influenced by the party system polarisation), these issues have been highly neglected.

Therefore, the third objective of this dissertation is to identify whether there are interactions between political systems and political institutions and the independence of national media regulators. The last set of hypotheses advanced in this study bring together the previous assumptions and the theoretical and empirical debates around the political determinants of formal independence. They suggest that formal independence is a consequence of the choices of particular institutional solutions of political systems, including the type of executive (presidential, semi-presidential, parliamentary, monarchy, and constitutional monarchy), legislature (single or double chamber), political parties and electoral systems (majoritarian, mixed or proportional).

Hence, the third set of hypotheses advances that:

*Hypothesis 3: Differences across political systems explain the cross-country variations in the formal independence of national media regulators.*

*Hypothesis 3.1: Differences across electoral systems explain the cross-country variations in the formal independence of national media regulators.*

*Hypothesis 3.2: Differences across executive systems explain the cross-country variations in the formal independence of national media regulators.*

*Hypothesis 3.3: Differences across legislative systems explain the cross-country variations in the formal independence of national media regulators.*

*Hypothesis 3.4: Differences across party systems explain the cross-country variations in the formal independence of national media regulators.*

Based on this approach, the independence of national media regulators can be analysed as a regulatory outcome performed by political institutions.
2.8 Conclusion

In this chapter I have reviewed the scholarly literature on regulatory agencies, media systems and political systems. The theoretical framework was related to the main variables under study, and aimed at framing deductively the research questions put forward in the introductory chapter.

In the first four units of this chapter, I discussed the current interdisciplinary approaches on media regulation, identifying the major gaps in the literature. Conceptual limitations and methodological weaknesses related to the lack of extensive comparative works, the lack of quantitative data and the lack of available instruments for measuring independence have been emphasised. I have clarified the conceptual differences of the term ‘regulation’ from the perspectives of both political science, and media and communication sciences. Moreover, I have reviewed the normative theories on regulation, highlighting the formal and informal mechanisms embedded in regulatory policies.

Sections 2.5 and 2.6 are devoted to the literature on NRAs, and in particular to the claim of independence for media regulators. The exiting indicators and methodologies employed to assess the regulatory independence, along with recent findings regarding the formal \((de \ jure)\) and actual \((de \ facto)\) independence, have been critically analysed. In Section 2.7 I have debated the concepts of media systems and political systems, employed in this study as explanatory factors for the independence of media regulators.

Derived from the theoretical framework, the objectives of this dissertation have been laid out. The first purpose of this study is to provide a revised typology of institutional arrangements of national media regulators across Europe. The study’s second purpose is to empirically assess the cross-country variation in formal independence of NRAs, by replicating Gilardi’s (2002) index of formal independence.

The operationalisation of the main variables discussed in this chapter (formal independence, media systems, and political systems), as well as the methodology proposed to address the theoretical and empirical questions, are discussed in the forthcoming Chapter 3.
Chapter 3 Research Design and Methodology

3.1 Introduction

This chapter provides a methodological overview of the research developed in this dissertation. The investigation employs variable oriented research design, concerned with understanding the correspondence between the formal independence of national media regulators, and the constellations of media systems and political systems.

The subsequent sections introduce general considerations on how the research questions and hypotheses have been approached methodologically. Discussion of the context of the research, research design, measurement of variables, selection of cases, data collection, and reflections regarding the limitations of the study, is also provided.

3.2 The research context

National Regulatory Authorities are the key players in the governance of the audiovisual sector in Europe (Irion & Radu, 2013). The advent of regulatory agencies entrusted with various degrees of regulatory independence has attracted major academic interest in the links between institutional arrangements and independence as a regulatory outcome.

In the attempt to explain why independence varies across countries, several scholars advanced causal relationships among political systems and political institutions, national media traditions and the formal independence of media regulators (Hallin & Mancini, 2004; Siebert et al., 1963). Yet empirical knowledge about the relation between the three variables is rare. Empirical assessments of the regulatory independence of national media regulators are very limited. Systematic overviews are rare (for an in-depth analysis, see the discussion provided in Section 2.6).

This dissertation addresses the inconsistencies in prior research by providing the first systematic account of how formal independence of national media regulators varies across countries. In this study I test several explanatory factors for the observed variation in formal independence, and I
explore how institutional patterns of media systems and political systems interact with the major features of the regulatory independence.

This study makes a five-fold contribution. Firstly, it addresses the issue of media regulation and regulatory independence from an interdisciplinary perspective, improving the current understanding of how the audiovisual media are regulated. Secondly, it provides the most extensive, systematic comparative study of independent media regulatory agencies across Europe. Thirdly, it introduces both an original data set on the institutional settings of national media regulators, and an original index of formal independence. Fourthly, it consolidates the important role that the quantitative approach can have in interdisciplinary areas of research. Lastly, it introduces the first empirical validation of the groundbreaking theory on media systems advanced by Hallin and Mancini (2004), which has never been verified on a sample including regulatory agencies for the audiovisual sector.

### 3.3 Research questions and hypotheses

This dissertation intends to contribute to a better understanding of regulatory practices throughout the study of the formal independence of National Regulatory Authorities (NRAs) for the audiovisual sector in Europe. The starting point for reaching this objective is to scrutinise different setups of formal criteria regarding the institutional, legal and regulatory framework of media regulatory agencies in Europe. The proposed dimensions of analysis are built based on previous theoretical and empirical frameworks which have been thoroughly reviewed in Chapter 2. Five major elements are analysed: structural and organisational design; funding mechanisms; means of accountability, and regulatory competencies.

The second objective is to look for cross-country variation in the formal independence of national media regulators based on the measurement of the aforementioned criteria of formal independence.

The third aim is to investigate whether extant typologies of media systems and political systems can be regarded as explanatory factors underlying the cross-country variation in formal independence.
Table 4 summarises the key research questions and hypotheses advanced in this dissertation:

**Table 4. Summary of Research Questions (RQ) and Hypotheses (H)**

<table>
<thead>
<tr>
<th>Research Questions (RQ)</th>
<th>Hypotheses (H)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RQ1</td>
<td></td>
</tr>
<tr>
<td>RQ2</td>
<td></td>
</tr>
<tr>
<td>RQ3</td>
<td>H1</td>
</tr>
<tr>
<td>RQ4</td>
<td>H2</td>
</tr>
<tr>
<td>RQ5</td>
<td>H3</td>
</tr>
</tbody>
</table>

The cross-country comparative analysis on the institutional design characteristics of national media regulators aims to answer the first two research questions (RQ1 and RQ2). The extensive investigation focuses on comparing institutional setups of formal criteria regarding the institutional, legal and regulatory framework of media regulatory agencies across Europe. The major findings are outlined in Chapter 4, which presents a revised typology of NRAs for the audiovisual sector.

The following set of research questions (RQ3, RQ4, and RQ5) is answered through a quantitative approach presented in Chapter 5. These research questions investigate how the formal independence embedded in the institutional design of NRAs interacts with the national media traditions and political systems configurations. Three hypotheses are advanced.

The first hypothesis addresses the cross-country variation in formal independence by systematic analysis and aggregated data. The second hypothesis examines the relevance of Hallin and Mancini’s taxonomy of media systems as an explanatory framework for the cross-country variation in formal independence of national media regulators. The third set of hypotheses establishes causal relationships between political systems and the independence of national media regulators.

These hypotheses focus on two independent variables (the media systems and political systems), and one independent variable (formal independence), and are discussed at length in this chapter.
3.4 Research design

The key argument of this thesis is that the cross-national differences in the variations in formal independence of NRAs can be explained by the configurations of both media systems and political systems. I demonstrate this claim in two ways.

Firstly, I carry out a descriptive, exploratory comparative analysis of the institutional design of 51 NRAs in 48 countries across Europe and beyond, in which I answer the first two research questions (RQ1 and RQ2). The analysis focuses on contextualising and scrutinising different setups of formal criteria regarding the structural and organisational design, funding mechanisms, accountability, and the competencies of media regulatory agencies which were created up to and including the year 2013.

Secondly, I conduct a large-N statistical analysis of 46 NRAs in 43 countries, in which I answer the research questions RQ3, RQ4 and RQ5. These research questions outline a framework for empirically assessing the cross-country variations in formal independence, and for analysing the extent to which the observed variations can be explained by the configurations of media systems and political systems.

For the empirical measurement of formal independence, I consider the national media regulators which were created up to and including the year 2013. Cases are selected following the variable-oriented method, employed in order to test a limited number of variables (in the current study, one dependent and two independent variables) in a large-N study (N=46). The rationale behind the case selection involved qualitative sampling of cases that shared similar institutional designs.

The variable-oriented approach was examined by Ragin (1987) in his study on the research techniques in comparative social science. The author contrasts and compares the variable- and case-oriented methods, arguing that:

In the case-oriented strategies (…) it is clear that the goal of appreciating complexity is given precedence over the goal of achieving generality (…) In variable-oriented strategies, by contrast, generality is given precedence over complexity. This is because investigators who use this approach are more interested in testing propositions derived
from general theories than they are in unraveling the historical conditions that produce different historical outcomes. The case-oriented approach uses theory to aid historical interpretation and to guide the identification of important causal factors; the variable-oriented strategy, by contrast, usually tests hypotheses derived from theory. (Ragin, 1987, pp. 54-55)

According to Ragin (1987), the main goal of the variable-oriented research is theory testing. Key features in this approach are a clear set of variables derived from a theoretical framework, accurate instruments for measuring the variables, and the use of statistical techniques in order to provide generalisations.

First, the theory to be tested must be more or less clearly specified in terms of variables and relations. Second, competing explanations of the phenomenon of interest (which typically is a social structural variable) also must be formulated in terms of variables. (…) Third, it is necessary to devise appropriate measures of the variables specified in the various arguments, and the investigator must ascertain the reliability and validity of these measures. Finally, statistical analyses of the relationships between these measures, based on data from a systematically selected set of observations, are used to test the theory against alternative explanations. Statistical analyses of correlations between variables (both cross-sectional and longitudinal) provide a basis for empirical generalisations about structural processes specified in theories. (Ragin, 1987, p. 56)

Among the key advantages of employing variable-oriented strategy are the ability to formulate broad generalisations using small quantitative cross-national data sets, allowing for the rigorous analysis of theory applied on multiple cases, and allowing alternative explanations when testing a theory. Moreover, as Ragin (1987) suggests, cross-national aggregated data becomes accessible to various investigators, allowing replications and comparisons of empirical generalisations, and stimulating the use of statistical control techniques.

3.5 Variables: conceptualisation and operationalisation

The dependent variable analysed in this study is the formal or *de jure* political independence of national media regulators. The degree of regulatory independence is measured with the Gilardi
(2002) index. The independent macro-variables are the media systems and political systems, expected to explain the cross-national variation in the formal independence of NRAs for the audiovisual sector.

3.5.1 Explaining agencies’ formal independence: the dependent variable

In this dissertation I focus exclusively on the formal aspects of independence from politicians. After close scrutiny of various indices devised to measure formal independence, I have found that Gilardi’s (2002) index is the most suitable for the data set I am employing. In order to operationalise and measure the formal political independence of national media regulators I drew inspiration from Gilardi’s (2002, 2005, 2008) work on formal independence. The author built an index of formal independence, considering prescriptions designed to guarantee the agencies’ independence from elected politicians. Gilardi’s (2002) index does not take into account *de facto* independence.

I replicate Gilardi’s methodology and develop an independence index for regulatory agencies for the audiovisual sector. I chose to replicate Gilardi’s index because I consider it an appropriate instrument to compare the variation in formal independence of regulatory agencies for the audiovisual sector among different jurisdictions. The index directly captures the extent to which the regulatory agencies are independent from the political power, thus providing accurate tools to investigate the main research questions and hypotheses advanced in this dissertation. As Gilardi (2008) emphasises, the index he proposes constitutes the most extensive data set on the institutional characteristics of regulators in Europe, and represents a useful starting point for many studies of independent agencies across different sectors.

Gilardi’s (2002) index of formal independence, shown in detail in Table 5, is based on refined indices of central bank independence (Cukierman et al., 1992; Alesina & Summers, 1993; Grilli et al., 1991), which have been adapted for regulatory agencies. The index is obtained by aggregating 21 institutional characteristics of regulatory agencies describing five clusters of issues such as: (a) the status of the agency head; (b) the status of the management board; (c) relationship with government and parliament; (d) financial and organisational autonomy, and (e) regulatory competencies. Gilardi’s index is a continuous score ranging between zero (no
independence) and one (full independence). A higher value indicates a greater level of independence.

Table 5. The formal independence index adapted from Gilardi (2002)

<table>
<thead>
<tr>
<th>A) Status of the agency head</th>
<th>Weight</th>
<th>Coding</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Term of office</td>
<td>0.20</td>
<td></td>
</tr>
<tr>
<td>▪ over 8 years</td>
<td>1.00</td>
<td></td>
</tr>
<tr>
<td>▪ 6 to 8 years</td>
<td>0.80</td>
<td></td>
</tr>
<tr>
<td>▪ 5 years</td>
<td>0.60</td>
<td></td>
</tr>
<tr>
<td>▪ 4 years</td>
<td>0.40</td>
<td></td>
</tr>
<tr>
<td>▪ fixed term under 4 years or at the discretion of the appointer</td>
<td>0.20</td>
<td></td>
</tr>
<tr>
<td>▪ no fixed term</td>
<td>0.00</td>
<td></td>
</tr>
<tr>
<td>2) Who appoints the agency head?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ the members of the management board</td>
<td>1.00</td>
<td></td>
</tr>
<tr>
<td>▪ a complex mix of the parliament and the government</td>
<td>0.75</td>
<td></td>
</tr>
<tr>
<td>▪ the parliament</td>
<td>0.50</td>
<td></td>
</tr>
<tr>
<td>▪ the government collectively</td>
<td>0.25</td>
<td></td>
</tr>
<tr>
<td>▪ one or two ministers</td>
<td>0.00</td>
<td></td>
</tr>
<tr>
<td>3) Dismissal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ dismissal is impossible</td>
<td>1.00</td>
<td></td>
</tr>
<tr>
<td>▪ dismissal is possible, but only for reasons not related to policy</td>
<td>0.67</td>
<td></td>
</tr>
<tr>
<td>▪ there are no specific provisions for dismissal</td>
<td>0.33</td>
<td></td>
</tr>
<tr>
<td>4) May the agency head hold other offices in government?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ no</td>
<td>1.00</td>
<td></td>
</tr>
<tr>
<td>▪ only with the permission of the government</td>
<td>0.50</td>
<td></td>
</tr>
<tr>
<td>▪ yes/no specific provisions</td>
<td>0.00</td>
<td></td>
</tr>
<tr>
<td>5) Is the appointment renewable?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ no</td>
<td>1.00</td>
<td></td>
</tr>
<tr>
<td>▪ yes, once</td>
<td>0.50</td>
<td></td>
</tr>
<tr>
<td>▪ yes, more than once</td>
<td>0.00</td>
<td></td>
</tr>
<tr>
<td>6) Is independence a formal requirement for the appointment?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ yes</td>
<td>1.00</td>
<td></td>
</tr>
<tr>
<td>▪ no</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>
Table 5. The formal independence index adapted from Gilardi (2002)

<table>
<thead>
<tr>
<th>B) Status of the members of the management board</th>
<th>Weight</th>
<th>Coding</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Term of office</td>
<td>0.20</td>
<td></td>
</tr>
<tr>
<td>▪ over 8 years</td>
<td>1.00</td>
<td></td>
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<tr>
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<td></td>
</tr>
<tr>
<td>▪ no fixed term</td>
<td>0.00</td>
<td></td>
</tr>
<tr>
<td>2) Who appoints the members of the management board?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ the head of the agency</td>
<td>1.00</td>
<td></td>
</tr>
<tr>
<td>▪ a complex mix of the parliament and the government</td>
<td>0.75</td>
<td></td>
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<tr>
<td>▪ the parliament</td>
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<tr>
<td>▪ one or two ministers</td>
<td>0.00</td>
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<tr>
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</tr>
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<td>▪ there are no specific provisions for dismissal</td>
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<tr>
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<td></td>
</tr>
<tr>
<td>▪ no</td>
<td>0.00</td>
<td></td>
</tr>
</tbody>
</table>
Table 5. The formal independence index adapted from Gilardi (2002)

<table>
<thead>
<tr>
<th>C) Relationship with government and parliament</th>
<th>Weight</th>
<th>Coding</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Is the independence of the agency formally stated?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ yes</td>
<td></td>
<td>1.00</td>
</tr>
<tr>
<td>▪ no</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>2) What are the formal obligations of the agency vis-à-vis the government?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ there are no formal obligations</td>
<td></td>
<td>1.00</td>
</tr>
<tr>
<td>▪ presentation of an annual report for information only</td>
<td></td>
<td>0.67</td>
</tr>
<tr>
<td>▪ presentation of an annual report that must be approved</td>
<td></td>
<td>0.33</td>
</tr>
<tr>
<td>▪ the agency is fully accountable to the government</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>3) What are the formal obligations of the agency vis-à-vis the parliament?</td>
<td></td>
<td></td>
</tr>
<tr>
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<tr>
<td>▪ the agency is fully accountable to the parliament</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>4) Which body, other than a court, can overturn the decisions of the agency where the latter has exclusive competence?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ no body</td>
<td></td>
<td>1.00</td>
</tr>
<tr>
<td>▪ a specialised body</td>
<td></td>
<td>0.67</td>
</tr>
<tr>
<td>▪ the government, with qualifications</td>
<td></td>
<td>0.33</td>
</tr>
<tr>
<td>▪ the government, unconditionally</td>
<td></td>
<td>0.00</td>
</tr>
</tbody>
</table>
### Table 5. The formal independence index adapted from Gilardi (2002)

<table>
<thead>
<tr>
<th>Weight</th>
<th>Coding</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.20</td>
<td></td>
</tr>
</tbody>
</table>

#### D) Financial and organisational autonomy

1) What is the source of the agency’s budget?
   - fees levied on the regulated industry: 1.00
   - both the government and fees levied on the regulated industry: 0.50
   - the government: 0.00

2) How is the budget controlled?
   - by the agency: 1.00
   - by the accounting office or court: 0.67
   - by both the agency and the government: 0.33
   - by the government only: 0.00

3) Which body decides on the agency’s internal organisation?
   - the agency: 1.00
   - both the agency and the government: 0.50
   - the government: 0.00

4) Which body is in charge of the agency’s personnel policy (hiring and firing staff, deciding on its allocation and composition)?
   - the agency: 1.00
   - both the agency and the government: 0.50
   - the government: 0.00

#### E) Regulatory competencies

<table>
<thead>
<tr>
<th>Weight</th>
<th>Coding</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.20</td>
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</tbody>
</table>

1) Which body is competent for regulation in the relevant domain?
   - the agency only: 1.00
   - the agency and another independent authority: 0.75
   - the agency and the parliament: 0.50
   - the agency and the government: 0.25
   - the agency has only consultative competencies: 0.00
By replicating Gilardi’s (2002) index, I operationalise the formal independence with five indicators clustered around various dimensions and weighted according to their presumed influence, as presented in the forthcoming sections.

3.5.1.1 The status of the agency head and management board

The first two indicators (A and B) used for scoring formal independence are the status of the head of agency and management board. These are key to assessing how independent the head and board members are likely to be with regard to: term of office; by whom they are appointed; conditions for dismissal; whether another government position can be held at the same time; whether the appointment is renewable, and whether independence from any other (political or otherwise) affiliation is a formal requirement for the appointment. Taken together, the head of agency and board member status variables contribute to the assessment of how independent the executives of the agency are from undue political influence both at the appointment stage and when they serve after being appointed.

A longer term of office (four years or more) has preference over short terms (less than four years) in terms of independence. If the term of office is more than 8 years, the agency receives one point. If there is no fixed term, no points are given. If the agency’s management board participates in appointment procedures, then one point is awarded, while if ministers have the final decision the agency receives zero points. If there is no right of dismissal, the agency receives one point. If the appointer has discretionary powers to dismiss, then the agency receives zero points.

The possibility of heads and board members of holding another office in the government is the fourth indicator of formal independence. If this is not permitted, the agency receives one point. If permitted, then the agency receives zero points. If the appointment cannot be renewed, the agency receives one point. If terms can be renewed more than once, zero points are awarded. Lastly, if independence is a formal requirement, the agency receives one point, and if not, zero points.

Overall, the regulatory agency is more independent if the agency head and board members are selected jointly by government and parliament for a non-renewable fixed term, with no
possibility of early dismissal, rather than if they are appointed for a renewable term by a minister who has the power to dismiss them.

3.5.1.2 The relationship with government and parliament

The relationship with government and parliament variable (C) aims to define how independent the agency will be from the executive and the legislative branch in its operations. The specific indicators cover: whether the independence of the agency is formally stated in law or not; the formal obligations of the agency towards the government and the parliament, and whether the decisions of the agency can be overturned by anybody other than a court.

The first indicator distinguishes whether independence is a formally stated requirement: the agency receives one point if independence is formally required, and zero points if not. The second and third indicators assess the formal obligations of the agencies towards the government and parliament. If there are no formal obligations, the agency receives one point. If the agency is fully accountable to the government or parliament, then the agency receives zero. Lastly, the fourth indicator determines whether regulators’ decisions can be overturned by a separate body. If no such body exists, then the regulator receives one point. If the government unconditionally overturns the regulator’s decisions, then the agency receives zero points.

Overall, the regulatory agency is more independent if the requirement for independence is formally stated, if there are no formal checks and balances towards the government or parliament, and if no other authority than a court can overturn the regulators’ decisions.

3.5.1.3 Financial and organisational autonomy

The fourth cluster of variables that contribute to the score of formal independence are related to the budgetary and organisational autonomy (D). The indicators cover: the source of the income of the agency; who controls the agency budget; who decides on the agency’s internal organisation; and who is in charge of the agency’s personnel policy.

If agency’s budget comes from fees levied on the regulated industries, then the agency receives one point. If the funding comes from the government, the agency receives zero points. If the
budget is controlled by the agency, then the agency receives one point. If the government controls the budget, then the agency receives zero points. If the agency decides on its internal organisation, then it receives one point, but zero points are given if the government decides on the agency’s internal organisation. Lastly, if the agency is in charge of its personnel policy, it receives one point, while, if the government decides, the agency receives zero points.

Overall, formal financial independence is higher if the agency has autonomy with regard to its personnel policy and does not have to rely on the government to finance its activities than if the size and composition of staff and the budget controlled by the government.

3.5.1.4 Regulatory competencies

The last indicator for the assessment of formal independence is the regulatory competencies. The purpose is to verify whether the agency only is competent for regulation in the relevant domain. One point is ascribed if the answer is positive, but the agency receives zero points if it has only consultative competencies.

3.5.2 Explaining agencies’ formal independence: the independent variables

3.5.2.1 Media systems

The macro-variable media system is measured by the three types of media systems. I adopt the categorisation developed by Hallin and Mancini’s (2004) in order to investigate whether there is a causal relationship between the configuration of media systems and the agencies’ formal independence. Operationalisation of media systems across Europe presents several challenges. Post-communist countries in Central and Eastern Europe were not included in Hallin and Mancini’s (2004) study.

For the purpose of this analysis I initially consider the countries in Central and Eastern Europe as a separate category rather than assuming that they conform to the Polarised-Pluralist model. I first test the differences in formal independence among Polarised-Pluralist and Central and Eastern Europe countries to show whether it is accurate to operationalise the post-socialist European countries as Polarised-Pluralist ones. If the assumption that post-socialist European
countries belong to the same theoretical model of media system is supported in relation to the cross-country variation in formal independence, then I merge the Central and Eastern Europe countries with the Polarised-Pluralist media system model.

The first independent macro-variable is composed of three variables referring to the extant models of media systems, as displayed in Table 6.

<table>
<thead>
<tr>
<th>Media systems</th>
<th>Polarised-Pluralist model</th>
<th>Democratic-Corporatist model</th>
<th>Liberal model</th>
</tr>
</thead>
<tbody>
<tr>
<td>Countries</td>
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<tr>
<td>Albania</td>
<td>Macedonia</td>
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</table>

For the statistical analysis, the media systems are coded with 1 for the Polarised-Pluralist model, with 2 for the Democratic-Corporatist model, and with 3 for the Liberal model.

3.5.2.2 Political systems

For explanatory purposes, the second independent macro-variable examines the relations between political systems and regulatory independence. To assess the correspondence between the independent and dependent variables, I divide the countries according to their choice of executive structure, legislature, political parties and electoral system.

To operationalise the variable executive systems I adapt Colomer’s (2006) classification of executive systems, as illustrated in Chapter 2. Accordingly, I numerically code the presidential
system with 1, semi-presidential system with 2, parliamentary system with 3, constitutional monarchies with 4, and monarchies with 5. Table 7 displays the groups of countries analysed.

Table 7. Countries grouped by the type of executive system (adapted by the author)

<table>
<thead>
<tr>
<th>Executive system</th>
<th>Presidential</th>
<th>Semi-presidential</th>
<th>Parliamentarian</th>
<th>Constitutional monarchies</th>
<th>Monarchies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Countries</td>
<td>Azerbaijan</td>
<td>Armenia</td>
<td>Albania</td>
<td>Belgium</td>
<td>Switzerland</td>
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<td>Turkey</td>
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</tbody>
</table>

To operationalise the variable legislature I adapt the classification developed by Lijphart (1999), reviewed in Chapter 2. The two types of legislature are coded with 1 (single chamber) and 2 (double chamber). Table 8 displays the groups of countries analysed.

Table 8. Countries grouped by the type of legislature (adapted by the author)

<table>
<thead>
<tr>
<th>Legislature</th>
<th>Single Chamber</th>
<th>Double Chamber</th>
</tr>
</thead>
<tbody>
<tr>
<td>Countries</td>
<td></td>
<td></td>
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<tr>
<td>Albania</td>
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<td>Austria</td>
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<td>Azerbaijan</td>
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<tr>
<td>Latvia</td>
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</tbody>
</table>
The variable party systems is measured by the types of party systems identified by Lijphart (1984, 1999), and reviewed in Chapter 2. The two party system category is coded with 1, and the multi-party system category is coded with 2. Table 9 displays the groups of countries analysed.

<table>
<thead>
<tr>
<th>Countries</th>
<th>Political Parties</th>
<th>Two-party system</th>
<th>Multi-party system</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greece</td>
<td>Malta</td>
<td>Albania</td>
<td>Latvia</td>
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<tr>
<td>Malta</td>
<td>Norway</td>
<td>Armenia</td>
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<td>Kosovo</td>
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</table>

The variable electoral systems is measured by the types of electoral systems identified by Norris (1997), and reviewed in Chapter 2. The majoritarian electoral system is coded as 1, the semi-proportional electoral systems with 2, the proportional representation systems with 3, and the mixed system with 4. Table 10 displays the groups of countries analysed.

<table>
<thead>
<tr>
<th>Countries</th>
<th>Electoral system</th>
<th>Majoritarian</th>
<th>Semi-proportional</th>
<th>Proportional</th>
<th>Mixed</th>
</tr>
</thead>
<tbody>
<tr>
<td>France</td>
<td>Macedonina</td>
<td>Albania</td>
<td>Austria</td>
<td>Latvia</td>
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<td>Ukraine</td>
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</table>
3.6 Measurement of variables

To check for the cross-variation in formal independence, I quantize qualitative data on the five dimensions of Gilardi’s (2002) index, building an original data set of regulators’ institutional characteristics. I look at: the status of the agency head; status of the management board; relationship with government and parliament; financial and organisational autonomy, and regulatory competencies.

The term ‘quantizing’ describes the process of transforming coded qualitative data into quantitative data (Tashakkori & Teddlie, 1998). ‘Qualitative themes’ are ‘numerically represented in scores, scales, or clusters, in order more fully to describe and/or interpret a target phenomenon’ (Sandelowski, 2001, p. 231). Qualitative themes are first quantized and then tested by statistical means. The methodology of transforming a qualitative categorisation into a quantitative interpretation is employed in the analysis of qualitative data sets and it has five stages: material sourcing; transcription; unitisation; categorisation, and nominal coding.

Qualitative category type data regarding the five dimensions of Gilardi’s (2002) index of formal independence was gathered via questionnaires, and was transformed into numerical values to enable the full spectrum of quantitative mathematical-statistical analysis methodology. Each of the five indicators are numerically coded on a scale of 0 (lowest level of independence) to 1 (highest level of independence). In order to construct a single independence index, the individual indicators were aggregated in two steps. First, the indicators were aggregated at a variable level. The value of the variable-level index is the mean of the corresponding indicators. Then, variable-level indexes were aggregated into a single independence index, which is the mean of the five variable-level indexes. To each variable is attributed the same weight and the same relevance.

To assess the cross-country variation in formal independence of media regulators, for each country I consider the twenty-one indicators of Gilardi’s index. I averaged the indicators of

<table>
<thead>
<tr>
<th>Germany</th>
<th>Serbia</th>
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<tbody>
<tr>
<td>Greece</td>
<td>Slovakia</td>
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<td>Kosovo</td>
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</table>
countries with more than one regulator (Belgium and Switzerland). Because the data was not available for all the regulators, and because it was measured at the ordinal level, I use a nonparametric Skillings-Mack statistical test (Skillings & Mack, 1981) to look for significant different patterns between regulators. This nonparametric statistical test is useful for data obtained from block designs with missing observations occurring randomly. Further, I conduct post-hoc analysis (Wilcoxon signed-rank test corrected according to Bonferroni) to identify where the specific differences in the variation of formal independence lie. The Wilcoxon signed-rank test is a non-parametric statistical hypothesis test used when comparing two related samples, matched samples, or repeated measurements on a single sample to assess whether their population mean ranks differ. The Bonferroni method is a follow up test for correcting for multiple comparisons.

To test the second and third hypotheses, I grouped countries according to the extant typologies of media systems and political systems. Since Gilardi’s index of formal independence considered ordinal data, I compared the data running Kruskal-Wallis H and Mann-Whitney U tests, depending on the number of levels of the independent variable. The Kruskal–Wallis one-way analysis of variance by ranks is a non-parametric method used for comparing two or more samples that are independent, and that may have different sample sizes, and extends the Mann–Whitney U test to more than two groups. The Mann-Whitney U-test evaluates the difference between two treatments using data from the independent measures design.

Finally, I test Gilardi’s index for differences in formal independence across 43 countries among (1) media systems, types of (2) executive, (3) legislature, (4) electoral systems, and (5) party systems. Pairwise comparisons are performed using Dunn’s (1964) procedure with a Bonferroni correction for multiple comparisons to examine the differences in mean ranks.

### 3.7 Case selection and sampling strategy

The exploratory comparative analysis of the institutional design of media regulators focuses on 51 NRAs in 48 countries. For the empirical measurement of formal independence I consider 46 national media regulators from 43 countries which were created up to and including the year 2013 (see Table 11). Cases are selected following the variable-oriented method, employed in
In order to test a limited number of variables (in the current study, one dependent and two independent variables) in a large-N study (N=46).

The five criteria for case sampling are drawn from the literature on regulatory agencies. Consideration is given to those (1) regulatory agencies situated at arm’s length (or further) from the main hierarchical ‘spine’ of central ministries/departments of state; (2) carrying out public tasks at a national level; (3) staffed by public servants; (4) financed (in principle) by the state budget, and (5) subject to public/administrative law procedures (Talbot, 2004, p. 5).

Some European regulatory bodies were excluded from the empirical measurement of formal independence for various reasons. First, national media regulators do not exist in Estonia and Belarus. Second, I did not consider the regulatory bodies from overseas territories such as Gibraltar and Isle of Man. In these territories, the institutions dealing with the regulation of the media do not count as national media regulators. Third, data was not available for the regulatory body in Andorra.
Table 11. National Media Regulatory Authorities across Europe

<table>
<thead>
<tr>
<th>Countries</th>
<th>National Media Regulatory Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>Audiovisual Media Authority</td>
</tr>
<tr>
<td>Andorra</td>
<td>The Andorran Audiovisual Council</td>
</tr>
<tr>
<td>Armenia</td>
<td>National Commission on TV and Radio of Armenia</td>
</tr>
<tr>
<td>Austria</td>
<td>KommAustria</td>
</tr>
<tr>
<td>Bosnia-Herzegovina</td>
<td>Communication Regulatory Agency</td>
</tr>
<tr>
<td>Belarus</td>
<td>Ministry of Communications and Informatisation</td>
</tr>
<tr>
<td>Belgium</td>
<td>The Superior Audiovisual Council</td>
</tr>
<tr>
<td></td>
<td>The Flemish Regulatory Authority for the Media</td>
</tr>
<tr>
<td></td>
<td>Medienrat of the German-speaking Community</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>Council for Electronic Media</td>
</tr>
<tr>
<td>Cyprus</td>
<td>Cyprus Radio-Television Authority</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>Council for Radio and TV Broadcasting</td>
</tr>
<tr>
<td>Croatia</td>
<td>Agency for Electronic Media of the Republic of Croatia</td>
</tr>
<tr>
<td>Denmark</td>
<td>The Radio And Television Board</td>
</tr>
<tr>
<td>Estonia</td>
<td>Ministry of Culture</td>
</tr>
<tr>
<td>Germany</td>
<td>Directors Conference of the State Media Authorities</td>
</tr>
<tr>
<td>Finland</td>
<td>The Finnish Communications Regulatory Authority</td>
</tr>
<tr>
<td>France</td>
<td>The Superior Audiovisual Council</td>
</tr>
<tr>
<td>Georgia</td>
<td>Georgian National Communications Commission</td>
</tr>
<tr>
<td>Gibraltar</td>
<td>Gibraltar Regulatory Authority</td>
</tr>
<tr>
<td>Greece</td>
<td>National Council for Radio and Television</td>
</tr>
<tr>
<td>Hungary</td>
<td>The National Media and Info-communications Authority</td>
</tr>
<tr>
<td>Ireland</td>
<td>Broadcasting Authority of Ireland</td>
</tr>
<tr>
<td>Iceland</td>
<td>Icelandic Media Commission</td>
</tr>
<tr>
<td>Isle of Man</td>
<td>Communications Commission</td>
</tr>
<tr>
<td>Italy</td>
<td>Italian Communications Authority</td>
</tr>
<tr>
<td>Kosovo</td>
<td>Independent Media Commission</td>
</tr>
<tr>
<td>Liechtenstein</td>
<td>Media commission</td>
</tr>
<tr>
<td>Lithuania</td>
<td>Radio and Television Commission of Lithuania</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>National Programmes Council</td>
</tr>
<tr>
<td>Latvia</td>
<td>National Electronic Media Council of Latvia</td>
</tr>
<tr>
<td>Moldova</td>
<td>The Audiovisual Coordination Council</td>
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<tr>
<td>Montenegro</td>
<td>Agency for Electronic Media</td>
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<tr>
<td>Macedonia</td>
<td>Broadcasting Council of the Republic of Macedonia</td>
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<td>Malta</td>
<td>Malta Broadcasting Authority</td>
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<td>Netherlands</td>
<td>Commissioner for the Media</td>
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<td>Norway</td>
<td>Norwegian Media Authority</td>
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<tr>
<td>Poland</td>
<td>National Broadcasting Council</td>
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<tr>
<td>Portugal</td>
<td>Regulatory Authority for the Media</td>
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<tr>
<td>Romania</td>
<td>National Audiovisual Council</td>
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<tr>
<td>Serbia</td>
<td>Republic Broadcasting Agency</td>
</tr>
<tr>
<td>Spain</td>
<td>National Markets and Competition Commission</td>
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<tr>
<td>Sweden</td>
<td>Swedish Broadcasting Authority</td>
</tr>
<tr>
<td>Slovenia</td>
<td>Post and Electronic Communication Agency</td>
</tr>
<tr>
<td>Slovakia</td>
<td>Council for Broadcasting and Retransmission</td>
</tr>
<tr>
<td>Switzerland</td>
<td>Federal Office of Communication</td>
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<td></td>
<td>The Independent Complaints Authority for Radio and Television</td>
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<tr>
<td>Turkey</td>
<td>Turkish Radio and Television Supreme Council</td>
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<tr>
<td>Ukraine</td>
<td>The National Television and Radio Broadcasting Council of Ukraine</td>
</tr>
<tr>
<td>UK</td>
<td>The Office of Communications</td>
</tr>
</tbody>
</table>
3.8 Data collection

Data collection procedures were guided by the research questions and the choice of the research design. Evidence was gathered and synthesised from multiple data sources. The full data set, which was used for the empirical part of the study, was built according to the criteria of comparability between the institutional models and the array of regulatory competencies. For this statistical approach, the data of 46 regulatory bodies by the year 2013 has been encoded. Changes in the legislative framework that have occurred since December 2013 are not reflected in the data set. The data set on formal independence is original, and was compiled through the collection of primary and secondary data.

Primary data sources were a set of questionnaires (see Annex A) distributed in 2008 to the head members of the national media regulatory authorities which were members of the European Platform of Regulatory Authorities (EPRA) at that time. The purpose of the questionnaires was to gather relevant information on the role played by regulatory bodies, and on rules concerning media coverage of politics. Twenty-two respondents from 20 countries provided the information requested (see Annex B). From the data gathered via questionnaires, I generated reports on the legal provisions governing media regulatory agencies in Europe. The data was used to operationalise the index of formal independence of national media regulators, and to empirically scrutinise the cross-country variation in formal independence.

Primary data collection also consisted in examining the country reports and annual reports of national media regulators available online on the website of the European Platform of Regulatory Authorities (EPRA). EPRA is a professional forum created for informal discussion and the exchange of views between regulatory authorities for the audiovisual sector in Europe, regarding various issues related to legal problems of audiovisual regulation. Updated online reports are publicly available in English. The data gathered on the institutional design, funding mechanisms, accountability standards, and competencies were used to operationalise the index of formal independence of national media regulators.

This research also builds on a secondary evaluation of existing material that has already been produced in the countries in question. Secondary data collection improved and validated the
primary data collection through in-depth discussions with individuals (experts, members of the academia, professionals working in the field of media regulation), archives, reports, statutes, constitution, and broadcasting laws. In order to exclude any endogenous selection bias, I focused on comparable pieces of legislation. Legislation coming from different jurisdictions was selected to be formally and substantially similar.

Analysis of secondary data included the scrutiny of the professional report Indireg (2011) which provided a rich source of information on the general regulatory framework of the European states. From this reports I generated country summaries, and validated the index creation on formal independence.

3.9 Data interpretation techniques

Data analysis consists of examining, categorising, tabulating, testing and recombining both quantitative and qualitative evidence to address the initial propositions of the study. The overall themes, concepts, and relationships that have emerged from cross-case comparisons were systematically compared and analysed with the wide body of the extant literature on regulatory agencies.

Visual techniques of data display are used in order to offer explanation, to describe and to discuss the data. Graphic displays included text-tables, graphics, and boxplots, used to document, structure, compare, and integrate the evidence.

3.10 Limitations

The major limitations relate largely to the choice of data collection methods, which were subject to constraints in time, financial resources, difficulties in identifying and accessing relevant documents, as well as language limitations.

When conducting studies that rely on data being collected from different countries at different time periods, the timing of the data collection had to be considered since it may affect the quality of data and consequently the comparability of data collected. In response to this challenge, the data I gathered on the institutional design of media regulators reflects the situation at December
2013. Changes in the legislative framework that have occurred since December 2013 are not reflected in the data set and were excluded from the analysis.

The emergent nature of the media regulation area of research introduced a level of bias due to the lack of standardised definitions and key concepts. The nonequivalence of key terms or concepts represented a major challenge for this cross-national comparative research. For instance, the conceptualisation and operationalisation of independence was problematic, since there is no consensus in the literature on a single catch-all definition. While the independence of the media might refer to the freedom of speech in media studies, for the political and regulation scholars it refers to the safeguards institutionalised by formal setups and legislative frameworks.

The lack of available and/or reliable data required to limit the size of the sample (this is the case of Andorra, which was excluded from the empirical analysis). In addition, longitudinal data tracing the evolution over time in formal independence is currently not available for regulatory agencies. Therefore, since it was not possible to integrate the time dimension in a comparison of the formal independence of regulatory agencies, the analysis presented in this dissertation is purely cross-sectional.

A major difficulty in analysing and comparing the media independence across countries is the lack of quantitative data, since there are no available quantitative data sets regarding the previsions for formal independence of national media regulators. Measurement tools are replicated from other disciplines, such as economics. Ensuring consistency among research tools was problematic in the preparation of the material for this thesis. I needed to adapt research tools when conducting cross-national research in order to make it more acceptable for certain countries. This issue created other challenges with regard to the comparability of the collected data. This was the case for two countries, Estonia and Belarus, which were excluded from the empirical analysis, since they didn’t match the characteristics required by the formal independence index proposed by Gilardi (2002).

Language differences created an additional obstacle. Most of the information available on the websites of the media regulators was in English, and this facilitated the data collection. In cases
where data on media regulators was not available in English, I used an extensive translation of the key vocabulary.

Obtaining conceptual equivalence was the most difficult step in this process. The major task in translating tools into another language was to achieve equivalence in meaning rather than in literal forms. If the concept or term could not be translated exactly, I avoided any attempt at lexical equivalence and tried to locate a term that met the definition of that concept. This was the case for the legal provisions regarding the appointment process, checks and balances, and funding mechanisms. For accuracy in translation and interpretation, when data was collected from documents written in languages other than English, I have asked for translation guidance from academic colleagues across Europe and beyond.

3.11 Conclusion

In this chapter I have developed methodological explanations regarding the research design, measurement of variables, data collection techniques, and the limitations of the dissertation.

In the first three sections I have analysed the research context, addressing the inconsistencies in prior research, and emphasising the need for empirical assessments of the independence of NRAs. The key research questions and hypotheses have been discussed at length.

A cross-national comparative study of the institutional design of 46 media regulators in 43 countries has been proposed in order to analyse the variation in the formal independence of NRAs. Cases have been selected following the variable-oriented method, employed in order to test a limited number of variables in a large-N study. The dependent variable is the formal or *de jure* political independence of national media regulators. The degree of regulatory independence is measured with Gilardi’s (2002) index of formal independence. The independent macro-variables are the media systems and political systems, expected to explain the cross-national variation in formal independence of NRAs for the audiovisual sector.

Criteria for case sampling were drawn from the literature on independent regulatory agencies. Data was gathered and synthesised from multiple data sources. The data gathered on the institutional design, funding mechanisms, means of accountability, and competencies were used
to operationalise the index of formal independence of national media regulators. The biggest limitations on the study refer mostly to the choice of data collection methods, financial constraints, difficulties in identifying and accessing relevant documents, as well as language limitations.

The next two chapters, Chapter 4 and Chapter 5, introduce the key findings of this work. Chapter 4 provides a systematic, revised typology of NRAs for the audiovisual sector, highlighting cross-national similarities and differences in the institutional settings of national media regulators. Chapter 5 displays the empirical results on the cross-country variation in formal independence of national media regulators.
Chapter 4 Comparative Analysis of the Institutional Design of National Media Regulators

4.1 Introduction

This chapter introduces the findings of the cross-country comparative analysis on the institutional design of National Regulatory Authorities for the audiovisual sector. It proposes a revised typology of NRAs, complementing current classifications. The exploratory approach is centred on scrutinising different setups of formal criteria regarding the institutional, legal and regulatory framework of national media regulators across Europe. The aim of this comparative overview is to identify, categorise and display standard groups of regulatory bodies, highlighting the differences and similarities among regulators.

This chapter is structured as follows. Section 4.2 outlines the methodological approach employed that has been discussed in Chapter 3. In Section 4.3 I compare and categorise the institutional setups of national media regulators. Finally, section 4.4 concludes this chapter.

4.2 Methodological considerations

This chapter provides answers to the first two research questions, RQ1 and RQ2, advanced in the introductory chapter of this dissertation. These research questions address the key issues related to the institutional design characteristics of national regulatory authorities for the audiovisual sector. In particular, the extensive analysis focuses on contextualising and scrutinising different setups of formal criteria regarding the structural and organisational design, funding mechanisms, accountability, and the competencies of 51 media regulatory agencies which were created up to and including the year 2013.

The aim of this chapter is to provide a general perspective on the current media regulatory landscape. The analysis is based on data gathered and synthesised from multiple primary and secondary sources. Primary data sources are a set of questionnaires distributed to the head
members of the national media regulatory authorities, legal statutes, broadcasting laws, and annual reports. In addition, I rely heavily on evidence outlined in the Indireg Report (2011).

In the following units I summarise the main findings regarding the particularities of institutional configurations of regulatory authorities.

4.3 General overview

Departing from current classifications and typologies of regulatory agencies discussed in the Literature Review chapter (Spyrelli, 2003), the analysis revealed three major models of institutional design of NRAs.

The first model is the single-sector regulator whose sole function is to oversee the audiovisual sector. The second model is the converged regulator which oversees a broader range of services including telecommunications, information and communications technologies. Lastly, the third model is the multi-sector regulator which oversees not only the audiovisual sector, but other industry sectors with common economic and legal characteristics such as telecommunications, water, energy, and transportation.

Concerning the requirements for independence, four standard models of NRAs were identified, in line with prior categorisations (Indireg Report, 2011). The most common model is the regulator which functions as a legal separate entity. In a few cases, regulators function as legal separate entities subordinated to a ministry. Media regulators can function either as partly separate legal entities, or as units integrated within the ministry with no legal separate status. Depending on the provisions in the legal framework, independence can be implicitly or explicitly recognised as a value.

The prevailing model of NRAs is the independent regulatory body specialised in both public system broadcasting and commercial broadcasting. The highest decision-making organ of the regulatory body is either a board, true for the majority of cases, or an individual.

For appointment, no model predominates. Funding is derived from the state budgets or other sources, such as industry fees or fines.
Most of the regulators are accountable to parliament. National media authorities do not have general policy-setting powers in the majority of countries compared. Instead they have general policy-implementing functions.

### 4.3.1 Standard models of institutional frameworks

Following the classification of regulatory agencies put forward by Spyrelli (2003), which was discussed at length in Section 2.5.2, I have identified three broad categories of national media regulators: the single-sector regulator, designated as Model 1 in this section; the converged regulator, designated as Model 2, and the multi-sector regulator, designated as Model 3. Figure 1 displays these categories.

#### Figure 1. Categories of institutional frameworks of NRAs across Europe

![Standard models of NRAs](image)

The comparison of 51 NRAs for the audiovisual sector proved the dominance of the single sector-regulator institutional model over the others, as displayed in Table 12. Until 2013, 36 countries had set up single-sector regulators, eight countries and two British oversees territories have created converged regulators, and only two countries used the multi-sector approach.
### 4.3.1.1 Model 1: Single-sector regulators

Most of the countries surveyed in this study use the single-sector regulator approach. This model also includes organisational structures where the ministry is the regulator. This is the case for countries such as Belarus, Estonia, Iceland, Finland, Norway, Slovenia, and Sweden.

Key advantages and disadvantages of this institutional model have been addressed in the literature (Spyrelli, 2003). Strong arguments in favour of single supervision are the exclusive focus on the technical challenges of a single sector, and the expertise of the staff. Opponents of the single-sector regulators argue that fundamental disadvantages are the staffing reluctant to adapt to new technological challenges, the risk of capture, the cost of regulation, the overlap of tasks and responsibilities, and the institutional rigidity.

The challenges raised by convergence have led several countries, such as Austria, Bosnia-Herzegovina, Hungary, Finland, Italy, and the UK, to move away from single-sector regulators and evolve towards a converged regulator, thus merging agencies in charge of the various aspects of the audiovisual sector.
4.3.1.1 Single versus multiple regulatory authorities

Regulating the audiovisual sector in Europe is the key task of National Regulatory Authorities. However, in some countries, authorities other than the main supervisory agencies are also involved when dealing with issues concerning the right of reply, hate speech, advertising and the protection of minors (Indireg Report, 2011, p. 208).

According to the classification provided by the Indireg Report (2011), countries where other authorities are involved in dealing with the right of reply are: Austria, Belgium, France, Germany, Poland, the Netherlands, and Switzerland. Regarding hate speech, other authorities cooperate with the main NRAs in Finland, Germany, the Netherlands, Slovenia, Sweden, Lithuania, Norway, and Romania. For advertising, other authorities are involved in countries such as Finland, the UK, Portugal, Romania, Sweden, and the Netherlands. Lastly, in relation to the protection of minors, other authorities are also involved in conjunction with the main authority in Bulgaria, Germany, Lithuania, Romania, and Sweden.

Regional media authorities exist in Belgium, Germany, and Spain.

4.3.1.2 Model 2: Converged regulators

The converged regulator model is based on merging regulatory agencies responsible for telecommunications, information technology, broadcasting, and postal services under the authority of a single entity (ICT Regulation Toolkit, 2006). The convergent structure of the regulatory framework can be seen in the various tasks undertaken by the regulatory bodies. Convergent media regulators share either complementary or unrelated powers, with varying levels of competencies over the sectors.

For instance, as illustrated by Brouillette et. al (2012, p. 10), the regulators in Finland and the UK are responsible for tendering and licensing, and for monitoring and sanctioning media under their authority. The Italian media regulator is not responsible for tendering and licensing. In terms of dissimilar powers, such as exercising authority over the content of traditional print or online press, only NRAs in Italy and Hungary regulate all media sectors.
Chapter 4

As listed in the ICT Regulation Toolkit developed in cooperation with the International Telecommunication Union (ITU), the key advantages of converged regulators are: avoiding duplication of functions and costs of regulation, downsizing the overlap between various sectors, and the internal institutional flexibility. On the contrary, key disadvantages are the loss of transparency, the decreased level of accessibility to the consumer, and delays in the adoption of policies caused by long negotiation processes due to sectors’ divergent agendas.

By comparing the institutional design choices of national media regulators across Europe I have identified ten models of convergent NRAs in eight countries (Andorra, Austria, Bosnia-Herzegovina, Finland, Hungary, Italy, Switzerland, and the UK) and two British overseas territories (Gibraltar and Isle of Man).

In Andorra, the Andorra Telecom is the national telecommunications operator which acts like a converged regulator. Created in 1975, it is responsible for managing the technical infrastructure and national broadcasting networks related to radio and Terrestrial Digital Television (TDT), providing mobile and fixed voice, transmission data, Internet, and other supplementary services for domestic and international telecommunications.

In Austria, KommAustria (2001) is the convergent regulatory authority responsible for all electronic media in the broadcasting sector, fulfilling a wide range of functions such as establishing, maintaining frequency allocation and licensing procedures, guaranteeing and providing access for private broadcasting companies to broadcasting infrastructure owned by the public broadcaster ORF (Trappel, Grunangerl, & Wenzel, 2013). The media regulator is also in charge of the implementation and development of digital broadcasting.

In Bosnia-Herzegovina, the Communications Regulatory Agency established in 2001 combines the competences of the Independent Media Commission and the Telecommunications Regulatory Agency, which had previously operated separately. Modeled after similar institutions in Europe, the agency's competences are: development and promotion of rules, the licensing of operators in the broadcasting and telecommunications sectors, the planning, management and allocation of the frequency spectrum, the implementation of technical and other standards related to quality, and the establishment and maintenance of license fees.
In Finland, the converged Finnish Communications Regulatory Authority (1988) covers electronic communications, the transmission for broadcasting services, and postal services. It carries out duties under the regulations of the Ministry of Transport and Communications.

In Hungary, the National Media and Infocommunications Authority was established in July 2010 as the country’s new regulator responsible for overseeing all sectors of the media, telecommunications and postal services. It replaced Hungary’s two former regulatory agencies—the National Radio and Television Commission, the media regulator, and the National Communications Authority, the telecommunications regulator—with a single, convergent body to manage all media sectors and areas of media regulation.

In Italy, the converged Communications Authority (established in 1997) covers issues related to transmission for broadcasting services and ancillary services (must-carry etc.). In addition, it also regulates the publishing sector.

In the UK, the Office of Communications was established in 2003 as a convergent entity, after the merger of five preexisting regulators responsible for specific areas of media and telecommunications regulation. It has regulatory duties across most of the converging telecommunications, broadcast television and radio, and postal sectors. It also acts as an advisor to government in areas such as media ownership rules and public service broadcasting, and is in charge of implementing and enforcing legislation.

In Switzerland, the Federal Office of Communications (1992), which forms part of the Federal Department of the Environment, Transport, Energy and Communications, is a converged regulator supervising the electronic communication.

In Gibraltar, the Gibraltar Regulatory Authority (2000) is the statutory body responsible for regulating telecommunications, radio communications and broadcasting transmission. Its Broadcasting Division is responsible for the granting and enforcement of licenses to broadcasters, and issuing codes of practice.

In the Isle of Man, the Communications Commission (1984) is a statutory board of the government, responsible for regulating telecommunications and broadcasting. The commission
handles complaints, issues warning, imposes fine, revokes and suspends licenses. It has consultative powers on the proportion of programmes broadcasted in the Manx Gaelic language.

### 4.3.1.3 Model 3: Multi-sector regulators

Multi-sector regulators oversee multiple industry sectors with common economic and legal characteristics (i.e. telecommunications, water, energy, and transportation). Spain and Slovenia are the only two countries in Europe to establish multi-sector national media regulators.

Among the arguments in favor of this institutional model are the staffing expertise and the knowledge in relation to the growing convergence between audiovisual and other sectors, the need for economies of scale to effectively regulate the different infrastructure industries and sectors, and the diminished political influence on the decision-making process (ICT Regulation Toolkit, 2006). However, opponents advanced criticism regarding the disproportionate share of the costs of regulation, the risk of capture by politicians or dominant players, the greater complexity in establishing legal frameworks including the independence, as well as potential delays in instituting reforms.

In Slovenia, the Agency for Communication Networks and Services is an independent body that regulates and supervises the electronic communications market, manages and supervises the radio frequency spectrum, performs tasks in the field of television broadcasting, and regulates and supervises the postal and railway service markets (see the ACA Europe meeting Report, June 2014). It was established at end of January 2014, replacing the former regulator, the Agency for Post and Electronic Communication, which had competencies only in regulating telecommunications, broadcasting and postal services.

Spain’s National Authority for Markets and Competition became operational on October 2013 as the new independent authority in charge of both competition and regulatory matters. The regulator merges the horizontal antitrust authority with the independent sector-specific NRAs of electronic communications, audiovisual, energy, postal and transport (railway and airport) sectors (see the Newsletter of the Mediterranean Network of Regulatory Authorities, September 2014).
4.3.2 Legal status and the requirement for independence

In the majority of countries surveyed, separate legal entities have been set up taking different administrative forms, according to the national legal traditions. Independence is implicitly or explicitly recognised as a value in the legal framework.

Following the categorisation provided in the Indireg Report (2011), I have identified four standard models of regulators, complementing the current classifications: separate legal entities; separate legal entities, subordinated to a ministry; quasi-separate entities, and residual categories, with no qualifications as separate legal entities. These categories are displayed in Figure 2.

As of 2013, NRAs existed as separate legal entities in 33 countries. Separate legal entities, subordinated to a ministry, have been established in eight countries, while quasi-separate entities have been set up in three countries. No separate legal regulatory entities exist in only two countries. Table 13 displays the categories of NRAs according to their legal status.
### Table 13. Legal status of NRAs across Europe

<table>
<thead>
<tr>
<th>Countries</th>
<th>Separate legal entities</th>
<th>Separate legal entities, subordinated to a ministry</th>
<th>Quasi-separate entities</th>
<th>Residual categories</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>Ireland</td>
<td>Finland</td>
<td>Liechtenstein</td>
<td>Belarus</td>
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<td>Andorra</td>
<td>Ireland</td>
<td>Iceland</td>
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<td>Armenia</td>
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<td>Norway</td>
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<td>Austria</td>
<td>Isle of Man</td>
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<td>Azerbaijan</td>
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<td>Georgia</td>
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<td>Gibraltar</td>
<td>Spain</td>
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<td>Greece</td>
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</table>

### 4.3.2.1 Model 1: Separate legal entities

Most of the media regulators surveyed function as separate legal entities. The requirement for independence is guaranteed in legal frameworks.

### 4.3.2.2 Model 2: Separate legal entities, subordinated to a ministry

Regulators under the authority of a ministry depend on the administrative support of the ministry to which they are attached, and often do not manage their own budget independently (Indireg Report, 2011).

Regulators in six countries are representative for this category. In Norway, the Media Authority is an administrative body under the Ministry of Culture. Both institutions are jointly responsible for the regulation of audiovisual services. Independence is recognised implicitly as a value to a certain extent, and in particular on matters relating to media ownership.

In Finland, the Communications Regulatory Authority is a separate legal entity under the management of the Ministry of Transport and Communications. In Iceland, the Media
Commission is an independent administrative committee under the authority of the Ministry of Education, Science and Culture. The legal status is not defined by law.

In Sweden, the Radio and Television Authority is a regulatory body under the Ministry of Culture, exercising laws decided by the Swedish Parliament. In Slovenia, the Broadcasting Council was set up as an independent expert body within the Agency for Communication Networks and Services. In Switzerland, the Federal Office of Communications is subordinated to the Department of Environment, Transport, Energy and Communication. Independence is not recognised as a value, neither implicitly or explicitly.

4.3.2.3 Model 3: Quasi-separate entities

Regulators functioning as quasi-separate entities may or may not have independence guaranteed by law. This is the case in Liechtenstein, Luxembourg, and Ukraine.

The Media Commission in Liechtenstein is partly a separate legal entity under the control of public administration (Press and Information Office). The independence is set out in the Media Law and Broadcasting Law. In Luxembourg, the National Council of Programs is the body responsible for advising the government in the supervision of all programmes licensed, authorised or distributed. It has a hybrid status in the sense that it is independent when carrying out its monitoring mission, but is dependent on the government for administrative and budget matters, as it has been legally established as an advisory body of the minister in charge of media (Indireg Report, 2011). Although it is not a separate legal entity, the regulator works independently of the government.

In Ukraine, the National Television and Radio Broadcasting Council is a constitutional, collegial, supervisory and regulatory television and radio broadcasting state authority acting on a permanent basis. The National Council functions as a legal entity. There are no legal provisions for independence.

4.3.2.4 Model 4: Residual categories with no qualifications as separate legal entities

Belarus and Estonia are the two countries which stand out as residual cases.
In Belarus, the Ministry of Communications and Informatisation is the policy-maker and regulatory authority for broadcasting and telecommunication.

In Estonia, the public service broadcasts are regulated by the Public Broadcasting Council. Regulatory supervision of commercial media is carried out by the Media and Copyright Department in the Ministry of Culture. The Department does not function as a separate legal entity. Independence is not recognised as a value in the legal framework. Regulatory bodies fully integrated into the administrative hierarchy are perceived as being problematic because the lack of functional separation between regulation and political interests might create conflicts (Indireg Report, 2011).

**4.3.3 Regulating the public versus commercial broadcasting**

The comparative analysis has shown that the prevailing regulatory model in Europe is the independent media authority specialised both in the regulation of both public service and commercial broadcasting, as displayed in Figure 3. Seven countries do not follow this standard model, as illustrated in the following paragraphs. There is no public service television in Liechtenstein and Luxembourg.
Figure 3. Regulation of PSB versus commercial broadcasting

In Armenia, the National Commission of Television and Radio Company is the regulator responsible for private media, while the Public Commission on Television and Radio regulates the public service broadcasting.

In Estonia, regulatory supervision of commercial media is carried out by the Media and Copyright Department in the Ministry of Culture. The public service broadcasting services are regulated by the Public Broadcasting Council.

In Finland, the NRA’s responsibilities extend to commercial television and radio broadcasting, telecommunications, postal services, privacy protection, and data security etc. The NRA does not regulate public service media, which are governed by separate administrative provisions.

In Germany, 14 media authorities are in charge of regulating commercial radio and television. Public broadcasting is regulated by broadcasting councils.

In Iceland, the Broadcast Licence Committee is not responsible for the supervision of public service media. This function is carried out by the Ministry of Education, Science and Culture.

In Ukraine, the National Television and Radio Broadcasting Council only regulates private broadcasters and other media outlets (state TV and radio companies).
Finally, Turkey’s audiovisual regulator is not responsible for the supervision of public service broadcasting.

4.3.4 Internal organisation and staffing

The dimensions considered for the cross-country comparison of internal organisation and staffing are: the composition of the highest decision-making organ; competences and decision-making process; appointment procedure; term of office and renewal; professional expertise; rules to guard against conflicts of interest, and rules to protect against dismissal.

4.3.4.1 The composition of the highest decision-making organ

Drawing upon the classification provided by the Indireg Report (2011), I have identified two models of leadership organisation: the collegial body, i.e. a board or commission composed of multiple members; and the single individual structure, i.e. a chairperson or president. Variations of each model are in use across Europe.

Based on the available data, the comparison showed significant differences among countries, as displayed in Figure 4. Only six regulators opted for setting single individual structures.
4.3.4.1.1 Regulatory authorities headed by a collegial body

The multi-member commissions or boards of directors are composed of a varying number of members, responsible for overseeing and directing all activities of the regulator. The composition of the highest decision-making body varies widely between countries. In most cases, it partly consists of experts, representatives of civil society, and industry.

4.3.4.1.2 Single individual structure

Single individual regulators are headed by a CEO, president or director general who oversees all policy, management, and administrative activities of the regulatory authority. In Europe, there are only six countries where the regulatory body is governed by an individual: Estonia, Finland, Slovenia, Sweden, Norway, and Switzerland.

4.3.4.2 Competences and decision-making process

As outlined in the Indireg Report (2011), the highest decision-making organ of the regulatory body has the power to determine its own internal organisation and procedures, except for Greece and Slovakia, where external approval is necessary. The power to decide on human resources is a
common feature of the NRAs, except for Austria, Finland (where the Ministry of Transport and Communications decides), and Greece (where the Minister of Economy and Finances decides).

4.3.4.3 Appointment process

Various models on the appointment process exist, as displayed in Figure 5. In some countries, the appointment stage is preceded by a nomination stage.

Figure 5. Appointment process

No model predominates.

4.3.4.3.1 Appointment without a nomination stage

Thirteen countries use this model, as displayed in Table 14.
Table 14. Appointment procedure: no nomination stage

<table>
<thead>
<tr>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Azerbaijan</td>
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<tr>
<td>Belgium</td>
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<tr>
<td>Cyprus</td>
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<td>Denmark</td>
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<td>Norway</td>
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<td>Sweden</td>
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<tr>
<td>UK</td>
</tr>
</tbody>
</table>

The appointing authority can be the executive body (as in Belgium, Cyprus, Denmark, Finland, the Netherlands, Slovenia, and the UK), the parliament (some German states), or socially relevant or parliamentary groups (some German states and Poland).

4.3.4.3.2 Appointment preceded by a nomination stage

Drawing upon the categorisation provided by the Indireg Report (2011, p. 244), I have identified four standard models of appointment. These models are: models with a predominance of the executive; models with a predominance of parliament; models involving both parliament and the executive, and finally, models involving civil society and/or relevant professional organisations.

The percentage of countries where the appointment stage follows a nomination stage is displayed in Figure 6.
The four models of appointment procedure are presented in Table 15.

### Table 15. Appointment procedure: with nomination stage

<table>
<thead>
<tr>
<th>Predominance of the Executive</th>
<th>Predominance of Parliament</th>
<th>Parliament &amp; Executive</th>
<th>Civil society &amp; Professional Organisations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nomination by the government and appointment by president: Austria</td>
<td>Nomination by political parties and appointment by parliament: the Czech Republic, Turkey</td>
<td>Nomination by the parliament and appointment by the president: Italy, Georgia</td>
<td>Nomination by civil society, political parties, professional associations, and appointment by parliament and/or president: Bulgaria, some German states, Hungary, Albania, Kosovo, Moldova, Montenegro, Macedonia, Serbia, Slovakia, Ukraine, Albania, Gibraltar</td>
</tr>
<tr>
<td>Nomination by the minister and appointment by the government: Ireland, Belarus, Luxembourg, Spain, Switzerland</td>
<td>Nomination by a parliamentary committee or by a minimum number of members of parliament and appointment by parliament: Estonia, Latvia, Portugal, Albania</td>
<td>Nomination by the parliament chambers, the government and the president and appointment by the parliament: Romania, Armenia, Isle of Man</td>
<td>Nomination by the president and parliament and appointment by the president: France</td>
</tr>
<tr>
<td>Nomination by the prime minister and the opposition and appointment by president: Malta</td>
<td>Nomination by the president of parliament and appointment by the conference of presidents of parliament: Greece.</td>
<td>Nomination by the executive and appointment by parliament: Bosnia-Herzegovina, Croatia</td>
<td>Nomination by government committees and appointment by president, parliament and professional organisations: Lithuania, Iceland.</td>
</tr>
</tbody>
</table>
4.3.4.4 Term of office and renewal

As outlined in the Indireg Report (2011), the term of office of the members of the highest decision-making organ typically ranges between two and seven years. The only exceptions are in countries where the highest decision-making organ is an individual who has either a permanent term of office (Norway) or where the term of office is not specified (Finland, Switzerland).

In most countries, the term of office does not coincide with the election cycle, except for Albania, Belgium, Bosnia-Herzegovina, Denmark, Estonia, Iceland, Lithuania, Serbia, and Slovenia.

In many cases, renewal is possible, but is limited to one or two instances. The renewal is possible without limitation in Belgium, Denmark, Estonia, and Luxembourg. Countries where renewal is not allowed include France, Italy, Poland, Portugal, Spain, Macedonia, and Iceland.

4.3.4.5 Professional expertise/qualifications

Countries that specify professional qualifications and expertise are Albania, Austria, Belgium, Bulgaria, Finland, Hungary and Turkey. In general, requirements refer to higher education, or to relevant professional experience. In three specific countries, some members of the board must be qualified as a judge, as in Belgium (Flemish Community), in some German states, and in Sweden (Indireg Report, 2011).

Qualifications and expertise are not requirements in Armenia, some German states, the Czech Republic, France, Latvia, Lithuania, Malta, Romania, Slovakia, the UK, and Liechtenstein.

4.3.4.6 Rules to guard against conflicts of interest–appointment process

In most countries surveyed, there are rules to guard against conflicts of interest at the appointment stage of the board members. The rules address incompatibilities with government, parliament, political parties and industry.

No specific rules are imposed in Belgium, Cyprus, Denmark, some German states, Latvia, Iceland, Switzerland and Luxembourg.
In the majority of countries, members of the board may not hold other offices at the same time as they serve on the board. Exceptions are Albania, Austria, Czech Republic, Germany, Iceland, Ireland, Kosovo, Liechtenstein, Lithuania, the Netherlands, Poland, and Romania.

**4.3.4.7 Rules to guard against conflicts of interest–during term of office**

The aforementioned rules also apply during the appointment stage. In addition, some countries have additional rules that take the form of confidentiality, a prohibition on carrying out political activities and making political statements on behalf of a party, a prohibition on working relationships with industry, a prohibition on receiving instructions or guidelines, and a duty to be impartial (Indireg Report, 2011, p. 227).

**4.3.4.8 Rules to guard against conflicts of interest–after term of office**

Most countries do not have rules to prevent conflicts of interests after the term of office expired. However, rules exist in Albania, Bulgaria, Croatia, France, Greece, Hungary, Italy, Latvia, Macedonia, Malta, Spain, Portugal, and the UK. The minimum cooling-off period is six months (Hungary and the UK), and the longest is four years (in Italy and Greece for senior staff only).

**4.3.4.9 Rules to protect against dismissal**

Specific rules limiting the possibility of dismissal of the board members exist in the large majority of the countries, except for Belgium, Denmark, Estonia, Greece, Sweden, Iceland, and Luxembourg.

In countries with specific rules on dismissal, the dismissal authority is usually the appointing authority. However, in five countries (Austria, Bulgaria, some German states, France, and Hungary), the highest decision-making organ itself has the power to dismiss its members.

Typical grounds for dismissal are: repeated absence; incompatibility with other positions; criminal prosecution/sentence; prolonged illness/disability; violation of the law; leaving the organisation or group that the member in question is representing, and providing incorrect information at the appointment stage.
In the large majority of countries, only individual members can be dismissed. However, in the Czech Republic, Hungary, Malta, Poland and Portugal, the whole board can be dismissed. Reasons for dismissal of the whole board were summarised in the Indireg Report (2001) and include: repeated non-approval of the annual report by Parliament (Czech Republic, Poland); repeated serious infringement by the board of its obligations (Czech Republic), failure to grant broadcasting rights (Hungary); and serious irregularities in the functioning of the board (Portugal).

4.3.4.10 Dismissal before term

Board members and or chairpersons have been dismissed before the end of the term of office in 11 European countries in the past 11 years, according to the Indireg Report (2011). The dismissals took place because of incompatibilities or conflicts of interest, or because two media authorities were merged.

Early dismissals have occurred in Belgium, Bulgaria, Germany, Poland, Slovenia, Sweden, Macedonia, Albania, Montenegro, and Serbia.

4.3.5 Powers of the regulatory bodies

In general terms, audiovisual regulators are in charge of rule-making, licensing, monitoring, imposing sanctions, organising and co-ordinating the broadcasting sector.

General policy-setting powers cover the rule-making strategies, quotas, licensing regime, media ownership, advertising, content and privacy standards, the protection of minors, fees and the determination of the public service remit. In many countries, powers derive from the general broadcasting legislation and/or the constitution. National media regulators in the majority of the countries surveyed do not have general policy-setting powers, except for regulators in Albania, Croatia, Ireland, Latvia, Kosovo, Macedonia, Montenegro, Romania, the UK, Serbia, Slovakia, Switzerland, and Turkey.

General policy implementing powers cover supervision and monitoring of compliance with rules on quotas, defining licensing criteria, advertising, sponsorship, and protection of minors. Media
regulators in all countries surveyed have policy-implementing powers, except for Estonia, Norway and Luxembourg, where this power is exercised by both the regulator and the Ministry of Culture.

Third-party binding policy application powers cover the granting of licences (including cancelling, revoking, and transferring licences), assigning radio frequencies, issuing warnings, appointing PSB managers, adopting sanctions dealing with appeal procedures etc. Third-party binding application powers derive from specific legislation and are exercised in all countries, except for Luxembourg and Iceland. In Estonia and Slovenia, this power is exercised by the Ministry of Culture (Indireg Report, 2011).

Supervision and monitoring powers vary from systematic monitoring to monitoring only after complaints. Systematic monitoring is exercised by authorities in almost all states, except for regulators in Denmark, Kosovo, Romania, Slovenia and Sweden. Ad hoc monitoring is also carried out by most media regulators.

All authorities have the power to adopt sanctions. Sanction powers include issuing warnings or formal objections, imposing lump sum fines, requiring the publication of decisions in the media and imposing penalty payments for non-compliance.

4.3.6 Financial resources

The most common funding model is the state budget (21 countries). In 17 countries the NRAs’ budgets are supplemented by mixed sources, which include revenues from fees for issue and renewal of licenses/authorisations, revenues from administrative fees for the processing of applications, revenues from tariffs for broadcasting services set in the fiscal laws (in its role as tax agent), and funds from the state budget.

Media regulators in 11 countries (including Gibraltar and Isle of Man) rely solely on industry fees, spectrum fees, licence fees, and fines. The distribution per models of funding is displayed in Figure 7.
Austria, Bulgaria, Iceland, and Norway are among the countries where regulators are mainly funded by sources other than the state budget. In Croatia, Gibraltar, Hungary, and Slovenia the main sources of funding are industry fees.

Regulatory bodies grouped by their source of funding are presented in Table 16.

<table>
<thead>
<tr>
<th>Countries</th>
<th>State budget</th>
<th>Mixed sources</th>
<th>Industry fees</th>
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<tr>
<td>Armenia</td>
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<td>Slovenia</td>
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</table>
Chapter 4

| Ukraine |

The budget is first proposed by the government and adopted following the approval of parliament in countries where the funding comes from the state budget. Budgets of national media regulators are only subject to approval by the government in Albania, Bosnia-Herzegovina, Greece, Italy, Kosovo, Luxembourg, the Netherlands, Portugal, Slovenia, and the UK.

The budget is subject to approval by parliament in Armenia, Belgium, Bulgaria, Cyprus, Denmark, Estonia, France, Hungary, Moldova, Montenegro, Norway, Poland, Romania, Serbia, Spain, and Turkey.

In Austria, Germany, Ireland, Lithuania, and Macedonia, audiovisual regulators can decide independently on their budgets.

4.3.7 Checks and balances

Accountability mechanisms, auditing requirements, court-appeal possibilities, and the means of procedural legitimacy are among the key elements of regulators’ checks and balances.

Most of the audiovisual regulators are formally accountable to Parliament, as displayed in Figure 8.
Media regulators in the Nordic countries (Denmark, Finland, Iceland, Norway, and Sweden) are not under a formal obligation to report to Parliament.

Accountability takes the form of an annual report that includes information on the regulator’s activities and finances. Parliament’s formal approval of such a report is required in Albania, Cyprus, Croatia, Czech Republic, Hungary, Kosovo, Malta, Poland, Romania, and Slovakia.

Table 17 illustrates the formal accountability and reporting obligations of all the national media regulators surveyed.

<table>
<thead>
<tr>
<th>Checks and balances</th>
<th>Parliament</th>
<th>Government</th>
<th>Parliament and Government/Ministry/President</th>
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<tbody>
<tr>
<td>Countries</td>
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<td>Albania</td>
<td>Austria</td>
<td>Belgium</td>
<td>Belgium (Parliament, Government)</td>
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<td>Armenia</td>
<td>Belarus</td>
<td>Bosnia-Herzegovina (Parliament, Government)</td>
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<td>Bulgaria</td>
<td>Finland</td>
<td>France (Parliament, President)</td>
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<td>Croatia</td>
<td>Luxembourg</td>
<td>Georgia (Parliament, President)</td>
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<tr>
<td>Cyprus</td>
<td>Netherlands</td>
<td>Greece (Parliament, Ministry Responsible for the Media, Prime Minister)</td>
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<tr>
<td>Czech Republic</td>
<td>Norway</td>
<td>Iceland (Parliament, Ministry of Education, Science and Culture)</td>
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<tr>
<td>Estonia</td>
<td>Slovenia</td>
<td>Ireland (Parliament, Ministry of Communications, Energy and Natural Resources)</td>
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<td>Hungary</td>
<td>Sweden</td>
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</tbody>
</table>
External performance auditing is required in most of the countries, except for Belgium, Croatia, Czech Republic, Denmark, France, Greece, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Montenegro, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, UK, and Turkey. The audit usually takes place annually.

Power to overturn/instruct is held by Supreme Courts in Belgium, Cyprus, Croatia, Germany, Finland, France, Greece, Hungary, Kosovo, Lithuania, Turkey, Latvia, Malta, Poland, Portugal, Slovenia, Slovakia, Switzerland, Turkey, and the UK. In most of the cases, courts do not have the power to overturn the regulator’s decision in favour of their own, except for Croatia, Ireland, Latvia, Lithuania, Macedonia, Malta, Norway, the Netherlands, Poland, Portugal, Slovenia, Sweden, and Switzerland. The ministry or the government can overturn NRAs’ decisions in Belgium, Denmark, the Netherlands, Liechtenstein, and Norway.

Public consultations practices vary across countries. Public consultation is required by law in Austria, Bosnia-Herzegovina, Belgium (only for market analyses), Bulgaria, France, Greece, Hungary, Italy, Kosovo, Latvia, Macedonia, Portugal, Romania, and Slovenia. No such requirements exist in Cyprus, the Czech Republic, Estonia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Slovakia, and Spain.

It is common practice for the regulators to publish consultation responses in the following countries displayed in Table 18.
Table 18. Consultation responses published by regulators

<table>
<thead>
<tr>
<th>Armenia</th>
<th>Ireland</th>
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<tbody>
<tr>
<td>Albania</td>
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<td>Austria</td>
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<td>Czech Republic</td>
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<td>Denmark</td>
<td>Moldova</td>
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<tr>
<td>Estonia (financial report)</td>
<td>Montenegro</td>
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<td>Finland</td>
<td>The Netherlands</td>
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<td>France</td>
<td>Poland</td>
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<td>Kosovo</td>
<td>Portugal</td>
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<tr>
<td>Germany (commercial broadcasters)</td>
<td>Spain</td>
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<td>Greece</td>
<td>Romania</td>
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<td>Hungary</td>
<td>UK</td>
</tr>
</tbody>
</table>

The minutes, the agendas and the decisions taken in the board meetings are not usually published, except for media regulators in Bulgaria, Croatia, Macedonia, Czech Republic (minutes only), Estonia (not all decisions), Greece (agendas only), Hungary, Latvia (agendas only), Lithuania, Romania, Slovakia, and the UK.

4.4 Conclusion

In this chapter I have provided a systematic revision of current typologies of NRAs for the audiovisual sector, answering the first two research questions (RQ1 and RQ2) which concerned the particularities of institutional configurations of national media regulators. The cross-country comparative analysis focused on the institutional setups of formal criteria regarding the institutional, legal and regulatory frameworks of state media regulatory authorities.

The analysis revealed three major models of institutional design of NRAs: the single-sector regulator (36 cases); the converged regulator (10 cases), and the multi-sector regulator (two cases). Four standard models of NRAs were identified with regard to the requirements for independence. Regulators function as either legal separate entities (37 cases), or legal separate entities subordinated to a ministry (six cases), or partly separate legal entities (three cases), or as
units integrated within the ministry with no legal separate status (two cases). Independence can be implicitly or explicitly recognised as a value.

The prevailing institutional model is the independent regulator specialised in both public system broadcasting and commercial broadcasting (39 cases). The highest decision-making organ of the regulatory body is either a board (42 cases) or an individual (six cases).

Various models of appointment exist. While the appointment is preceded by a nomination stage in 35 countries, in 13 states there is no formal nomination stage. Funding derives from the state budget (21 cases), or mixed sources (17 cases), or from industry fees (11 cases). Most of the regulators are accountable to Parliament (20 cases). NRAs do have general policy implementing functions.

In the forthcoming Chapter 5, I introduce the results of the empirical analysis on the cross-country variations in formal independence.
Chapter 5  Measuring Formal Independence of National Media Regulators: Empirical Analysis

5.1 Introduction

This chapter reports the main findings regarding the cross-national variations in formal independence of National Regulatory Authorities for the audiovisual sector. Based on both original hypotheses and on previous contributions, in this dissertation I provide the first empirical assessment of NRAs’ regulatory independence. I test several explanations for the observed variations across countries, and I explore how media and political institutional practices impact the formal independence.

The empirical analysis used data both from the revised typology of NRAs advanced in the previous chapter, and from an original independence index of media regulatory authorities built by the author, based on existing indices (Gilardi, 2002). It is demonstrated in this chapter that institutional differences among NRAs mirror different levels of formal independence which varies across (1) countries, (2) media systems, and (3) political systems.

This chapter is structured as follows. Section 5.1 briefly outlines the methodology, data collection, and data analysis procedures. Section 5.2 illustrates the major findings regarding the variations in formal independence across countries, media systems and political systems. The concluding section summarises the results, reiterates their relevance and advances avenues for future research.

5.2 Methodological considerations

The quantitative analysis aims at providing answers to the research questions RQ3, RQ4, and RQ5 advanced in the introductory chapter of this dissertation. The research questions were translated into a set of testable hypotheses in order to investigate causal relationships among media systems, political systems, and the cross-country variations in formal independence of NRAs. The units of analysis were 46 national media regulators from 43 countries which had been established by the year 2013.
To capture formal independence I replicated the independence index developed by Gilardi (2002). The construction of the index was described in detail in Section 3.5. The five dimensions of the formal independence were: the status of the agency head; the status of the management board; relationship with government and parliament; financial and organisational independence, and regulatory competencies.

The independent variables tested were the media systems and political systems. In order to measure the correspondence between media systems and the formal independence of national media regulators, I divided the countries according to the existing models of media systems. Similarly, in order to measure the correspondence between the institutional settings of political systems and formal independence of national media regulators, I divided the countries with regard to their particular choice of executive structure, legislature, political parties and electoral systems.

The forthcoming sections introduce the main empirical results.

**5.3 Cross-country variations in formal independence: empirical test**

Formal independence was operationalised with indicators clustered around dimensions and weighted according to their presumed influence (Gilardi, 2008). Each of the five macro-indicators were coded on a scale of 0 (lowest level of independence) to 1 (highest level of independence), as displayed in Table 19. The individual indicators were aggregated in two steps. First, the indicators were aggregated at a variable level. The value of the variable-level index is the mean of the corresponding indicators. Then, variable-level indexes were aggregated into a single independence index, which is the mean of the five variable-level indexes. The same weight and relevance were attributed to each variable.
## Table 19. Formal independence index

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A) Agency head status</strong></td>
<td>AL</td>
</tr>
<tr>
<td>1) Term of office</td>
<td>0.6</td>
</tr>
<tr>
<td>2) Who appoints the agency head?</td>
<td>0.5</td>
</tr>
<tr>
<td>3) Dismissal</td>
<td>0.67</td>
</tr>
<tr>
<td>4) May the agency head hold other offices in government?</td>
<td>1</td>
</tr>
<tr>
<td>5) Is the appointment renewable?</td>
<td>0.5</td>
</tr>
<tr>
<td>6) Is independence a formal requirement for the appointment?</td>
<td>1</td>
</tr>
</tbody>
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<tr>
<th>Indicators</th>
<th>Countries</th>
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</thead>
<tbody>
<tr>
<td><strong>A) Agency head status</strong></td>
<td>KV</td>
</tr>
<tr>
<td>1) Term of office</td>
<td>0.2</td>
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<tr>
<td>2) Who appoints the agency head?</td>
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</tr>
<tr>
<td>3) Dismissal</td>
<td>0.67</td>
</tr>
<tr>
<td>4) May the agency head hold other offices in government?</td>
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<tr>
<td>5) Is the appointment renewable?</td>
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<tr>
<td>6) Is independence a formal requirement for the appointment?</td>
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Table 19. Formal independence index

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B) Board members status</strong></td>
<td>AL AM AT AZ BA BE BG CH CY CZ DE DK ES FI FR GE GR HR HU IE IS IT</td>
</tr>
<tr>
<td>1) Term of office</td>
<td>0.6 0.8 0.8 0.8 0.4 0.6 0.8 1.0 0.8 0.8 0.4 0.8 NaN 0.6 0.8 0.4 0.6 1.0 0.6 0.4 0.8</td>
</tr>
<tr>
<td>2) Who appoints the board members?</td>
<td>0.5 0.75 0.5 0.25 0.5 0.25 0.75 0.25 0.25 0.5 0.5 0.25 NaN 0.25 0.75 0.5 0.5 1.0 0.25 0.75</td>
</tr>
<tr>
<td>3) Dismissal</td>
<td>0.67 0.67 0.67 0.67 0.67 0.55 0.67 0.33 0.67 0.67 0.67 0.33 0.67 NaN 0.67 0.67 0.33 0.67 0.67 0.33 0.67</td>
</tr>
<tr>
<td>4) May the board members hold other offices in government?</td>
<td>1 NaN 1 1 1 1 1 1 0 1 1 0 1 NaN 1 1 1 1 1 NaN 0 1</td>
</tr>
<tr>
<td>5) Is the appointment renewable?</td>
<td>0 0.5 0.5 0 0.5 0 0.5 0.5 0 0.5 0 1 NaN 1 0 0.5 0 0 0.5 1 1</td>
</tr>
<tr>
<td>6) Is independence a formal requirement for the appointment?</td>
<td>1 1 1 0 1 1 0.8 1 0.8 0.8 0.4 0.8 NaN 0.6 0.8 0.4 0.6 1 0.6 0.4 0.8</td>
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<thead>
<tr>
<th>Indicators</th>
<th>Countries</th>
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<tbody>
<tr>
<td><strong>B) Board members status</strong></td>
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</tr>
<tr>
<td>1) Term of office</td>
<td>0.2 0.4 0.2 0.6 0.4 0.8 0.6 0.8 0.2 0.6 NaN 0.8 0.6 0.8 0.2 NaN 0.8 0.8 0.6 0.2</td>
</tr>
<tr>
<td>2) Who appoints the board members?</td>
<td>0.5 0.5 0.75 1 0.5 0.5 0.5 0.75 0 NaN 0.75 0.5 0.5 0.5 0.25 NaN 0.5 0.5 0.75 0.25</td>
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<td>3) Dismissal</td>
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</tr>
<tr>
<td>4) May the board members hold other offices in government?</td>
<td>0 1 1 0 1 NaN 1 1 1 1 NaN 1 1 1 1 NaN 1 1 NaN 0</td>
</tr>
<tr>
<td>5) Is the appointment renewable?</td>
<td>0.5 0.5 0.5 0 0.5 0.5 0.5 0.5 0.5 NaN 1 1 0.5 0 0 NaN 0.5 0.5 0.5 0</td>
</tr>
<tr>
<td>6) Is independence a formal requirement for the appointment?</td>
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Chapter 5

Table 19. Formal independence index

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>C) Relationship with the government and parliament</td>
<td>AL  AM  AT  AZ  BA  BE  BG  CH  CY  CZ  DE  DK  ES  FI  FR  GE  GR  HR  HU  IE  IS  IT</td>
</tr>
<tr>
<td>1) Is the independence of the agency formally stated?</td>
<td>1   1   1   1   1   1   1   1   0.5  1   1   1.00  1.00  1.00  1   1   1   1   1   1   1   1   1   1</td>
</tr>
<tr>
<td>2) What are the formal obligations of the agency <em>vis-a-vis</em> the government?</td>
<td>1   1   1   NaN  0.33  0.67  1   0.33  0.67  1   1.00  1.00  NaN  1.00  0.67  0.67  1   1   NaN  1   1   1   1   1   1   1   1   1   1</td>
</tr>
<tr>
<td>3) What are the formal obligation of the agency <em>vis-à-vis</em> the parliament?</td>
<td>0.33 0.33 0.67 NaN  0.33  0.67 0.67 0.33 0.33 0.33 1.00 1.00 NaN  1   0.67  0.67 0.67 0.33 NaN  0.67 1   0.67</td>
</tr>
<tr>
<td>4) Which body, other than a court, can overturn the decisions of the agency where the latter has exclusive competence?</td>
<td>1   1   0.67 1   1   1   0.44 1   1   1   1   1   1   1   1   0.67 1   1   1   1   1   1   1   1   1   1</td>
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<tr>
<th>Indicators</th>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>C) Relationship with the government and parliament</td>
<td>KV  LI  LT  LU  LV  MD  ME  MK  MT  NL  NO  PL  PT  RO  RS  SE  SI  SK  TR  UA  UK</td>
</tr>
<tr>
<td>1) Is the independence of the agency formally stated?</td>
<td>1   1   1   0   1   0   1   1   1   1   1   1   0   1   1   1   1   1   1   1   1   0   1   1</td>
</tr>
<tr>
<td>2) What are the formal obligations of the agency <em>vis-à-vis</em> the government?</td>
<td>1   0.33 1   1   1   1   1   1   1   0.33 1   1   1   1   1   0.33 0.33 0.33 1   0.33 1   0.33 1   1   1   1</td>
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<tr>
<td>3) What are the formal obligation of the agency <em>vis-à-vis</em> the parliament?</td>
<td>0.33 0   0.67 1   1   1   0.33 0.67 0.67 0.33 1   1   0.33 0.67 0.33 0.67 1   0.67 0.33 0.67 0.33 0.67 0.33 0.67</td>
</tr>
<tr>
<td>4) Which body, other than a court, can overturn the decisions of the agency where the latter has exclusive competence?</td>
<td>1   0.33 1   0.67 1   NaN  1   1   1   0.67 0.67 1   1   1   1   1   1   1   1   1   1   NaN  1   0.67 1   1   1   1</td>
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</tbody>
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129
### Table 19. Formal independence index

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<th>Indicators</th>
<th>Countries</th>
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<tr>
<td><strong>D) Financial and organisational autonomy</strong></td>
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<tr>
<td>1) What is the source of the agency's budget?</td>
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<td></td>
<td>AM 0.5</td>
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<td>AT 0.5</td>
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<td>IS 1</td>
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<td>IT 0.5</td>
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<tr>
<td>2) How is the budget controlled?</td>
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<td>1.00</td>
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<tr>
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<tr>
<td>3) Which body decides on the agency's international organisation?</td>
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<td>4) Which body is in charge of the agency's personnel policy?</td>
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</thead>
<tbody>
<tr>
<td><strong>D) Financial and organisational autonomy</strong></td>
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</tr>
<tr>
<td>1) What is the source of the agency's budget?</td>
<td>KV 0.5</td>
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<td>UA 0</td>
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<td>UK 0.5</td>
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<tr>
<td>2) How is the budget controlled?</td>
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<tr>
<td>3) Which body decides on the agency's international organisation?</td>
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<tr>
<td>4) Which body is in charge of the agency's personnel policy?</td>
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130
Table 19. Formal independence index

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<tr>
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<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>AL</td>
</tr>
<tr>
<td>E) Regulatory competencies</td>
<td>1.00</td>
</tr>
<tr>
<td>1) Which body is competent for regulation in the relevant domain?</td>
<td>1.00</td>
</tr>
</tbody>
</table>
To show the cross-country variations, each of the forthcoming box plots displays the average level of formal independence of national media regulators for different indicators, plus the mean of them which defines Gilardi’s index. On each box, the central mark is the median, the edges of the box are the 25th and 75th percentiles, the whiskers extend to the most extreme data points not considered outliers, and outliers are plotted individually. The black dots within the box plots represent the arithmetic mean.

5.3.1 Cross-country variations at the variable level

5.3.1.1 Status of the agency head and management board

The proposed dimensions of analysis were the formal independence of heads and board members of NRAs based on a series of indicators such as: the appointment body; the length of the term of office; the renewability of appointment; dismissal; compatibility with other public offices, and whether the independence of officials is an explicit requirement.

As described in Section 4.3.4, several models of appointment procedures exist across Europe. The appointing authority can be either the executive body, the parliament, or socially relevant groups. The term of office ranges between two and seven years. In most countries, it does not coincide with the election cycle. Renewal is possible, but is limited to one or two instances. Rules to guard against conflicts of interest exist in most of the countries, covering incompatibilities with government, parliament, political parties and industry. Other offices cannot be held at the same time. Specific rules limiting the possibility for dismissal exist.

Figure 9 and Figure 10 display the average level of formal independence of heads and board members of NRAs covered by data on six indicators plus the mean of them. The analysis reveals significant cross-national differences.
Chapter 5

Figure 9. Formal independence in relation to the agency head of NRAs
The highest values for the agency head status variable (A) are that of the national media regulator in Macedonia with 0.91 (out of a full value of 1.00), followed by the media regulators in Italy, Montenegro and Portugal with 0.87. The lowest three values for the agency head status variable (A) are for the media regulators in Norway, with 0.08, Denmark, with 0.12, and Switzerland with 0.33.

The high value for independence in this category stems from the fact that the board is involved in the appointment of the agency head, which is granted a high score in the independence index used. High values for independence are also due to the fact that the appointment of the agency head is not renewable, the reasons for dismissal are not related to policy, and the independence is a formal requirement for appointment stage.

The values for the board member status variable (A) exactly mimic those for the head status variable, as both the head of the agency and board members are appointed under exactly the same rules and procedures.

The low values for Denmark are due to the fact that the board members can hold other offices in government while serving on the board of the media regulator. They are appointed by one or two ministers, there are no specific provisions for dismissal, and the appointment is renewable more than once. Moreover, there is no formal requirement for independence, which in practice could imply that they are serving the ministers with whom they are affiliated in their main appointments. There are no boards in Finland, Slovenia, and Norway. Media regulators are governed by individuals.
Chapter 5

Figure 10. Formal independence in relation to board members of NRAs
5.3.1.2 Relationship with government and parliament

The relationship between the regulator and elected politicians, the formal requirement for independence, formal obligations and the conditions under which NRAs’ decisions can be overturned capture the level of formal independence in each country.

As reported in Section 4.3.7, most of the media regulators are formally accountable to Parliament, except NRAs in the Nordic countries. The accountability takes the form of an annual report which includes information on the regulator’s activities and finances. Usually, a minister/ministry or the government has powers to give instructions to the regulatory body. In the majority of cases, courts do not have the power to replace the regulator’s decision with their own, but can cancel the decision and remit it back to the regulator.

As displayed in Figure 11, the maximum value of formal independence for the relationship with the government and parliament variable (C) is 1, out of a full value of 1.00, and is given to the media regulators in Azerbaijan, Germany, Spain, Denmark, Hungary, Iceland, and Latvia.

The high values of formal independence are due to the fact that the independence of the agencies is formally stated, there are no reporting obligations towards the government or the parliament, and agencies’ decisions cannot be overturned by any other body than a court.

The lowest values of formal independence for the relationship with the government and parliament variable (C) are 0.14 for Liechtenstein, and 0.22 for Ukraine. The lowest values of formal independence are due to the fact that the independence of the agencies is not formally stated, media regulators are fully accountable towards the government or the parliament and the annual reports need approval, and agencies’ decisions can be overturn by the government, with qualifications.
Figure 11. Formal independence of NRAs in relation to governance structures
5.3.1.3 Financial and organisational independence

Data was gathered budget sources, control of the budget, and staff policy.

As already discussed in Section 4.3.6, the most common model of funding is one where the funding comes directly from the state budgets. In some cases, budgets are supplemented by other sources, such as the end-user broadcasting license fee, the revenues from technical fees or application fees, taxes on private broadcasters’ income, donations and grants. In the majority of the countries where the budget of the broadcasting regulator is part of the overall state budget, its approval follows the standard procedure where the budget is first proposed by the government and is adopted after parliament’s approval.

Figure 12 displays the average level of formal independence in each country surveyed.

In terms of the financial and organisational autonomy variable (D), seven national media regulators score a value of 1.00, out of a full value of 1.00. These countries are Germany, Georgia, Hungary, Ireland, Lithuania, Montenegro, and Macedonia. High levels of formal independence are due to the fact that the agencies’ budgets come from external funding, the agencies have full control of the budget, internal organisation and personnel policy.

At the other end of the scale, media regulators in Azerbaijan, Denmark, Liechtenstein, Poland, Sweden and Ukraine score 0, the lowest value of formal independence in terms of the financial and organisational autonomy variable. Low levels of formal independence arise because the funding comes from the government, which controls the budget, the agencies’ internal organisation and personnel policy.
Figure 12. Formal independence of NRAs in relation to budget and organisational autonomy
5.3.1.4 Regulatory competencies

In the majority of cases, national media regulators do not have general policy-setting powers. All authorities have the power to adopt sanctions, to issue warnings or formal objections, and to impose fines. The power to revoke or suspend a license exists in a large number of countries. Figure 13 captures the variation in formal independence in relation to the competencies that are delegated to national media regulators.

All but four media regulators score 1, the highest value of formal independence in relation with the delegated competencies variable. The exceptions are Austria, Norway, Luxembourg, and Switzerland, which co-regulate the audiovisual sector together with other institutions.
Figure 13. Formal independence of NRAs in relation to delegated competencies

Countries VS Regulatory competencies

Countries
5.3.2 Cross-country variations in formal independence: test of difference

In order to measure the variations in formal independence of NRAs, I considered the twenty-three indicators of Gilardi’s (2002) index for each country. I averaged the indicators of countries with more than one regulator (Belgium and Switzerland). Since the data is measured at the ordinal level, I applied a non-parametric test. Moreover, since data is not available for all the regulators, I used a Skillings-Mack statistical test. The Skillings–Mack statistic is a general Friedman-type statistic that can be used in almost any block design with an arbitrary missing-data structure. The means differed significantly among the countries (p < 0.001).

Post-hoc analysis (Wilcoxon signed-rank test corrected according to Bonferroni) revealed statistically significant differences between 20 groups of countries: Switzerland and Romania, Belgium and Hungary, Belgium and Georgia, Luxembourg and Hungary, Luxembourg and Latvia, Luxembourg and Serbia, the Netherlands and Macedonia, Switzerland and Croatia, Liechtenstein and Armenia, Denmark and Albania, Denmark and Czech Republic, Norway and Spain.

Table 20 outlines the values calculated for the variable-level independence index of 46 national media regulators.

<table>
<thead>
<tr>
<th>Country</th>
<th>Agency head status</th>
<th>Agency board status</th>
<th>Relationship with government and parliament</th>
<th>Financial and organisational autonomy</th>
<th>Competencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>0.7117</td>
<td>0.6283</td>
<td>0.8325</td>
<td>0.5825</td>
<td>1.0000</td>
</tr>
<tr>
<td>Armenia</td>
<td>0.7440</td>
<td>0.7440</td>
<td>0.8325</td>
<td>0.5825</td>
<td>1.0000</td>
</tr>
<tr>
<td>Austria</td>
<td>0.7033</td>
<td>0.7450</td>
<td>0.8350</td>
<td>0.8750</td>
<td>0.7500</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>0.4533</td>
<td>0.4533</td>
<td>1.0000</td>
<td>0</td>
<td>1.0000</td>
</tr>
<tr>
<td>Bosnia-Herzegovina</td>
<td>0.7617</td>
<td>0.6783</td>
<td>0.6650</td>
<td>0.8325</td>
<td>1.0000</td>
</tr>
<tr>
<td>Belgium</td>
<td>0.5678</td>
<td>0.5678</td>
<td>0.6958</td>
<td>0.1242</td>
<td>1.0000</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>0.6450</td>
<td>0.7033</td>
<td>0.9175</td>
<td>0.1650</td>
<td>1.0000</td>
</tr>
<tr>
<td>Cyprus</td>
<td>0.5367</td>
<td>0.5367</td>
<td>0.7500</td>
<td>0.1650</td>
<td>1.0000</td>
</tr>
<tr>
<td>Croatia</td>
<td>0.6283</td>
<td>0.6283</td>
<td>0.8325</td>
<td>0.6650</td>
<td>1.0000</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>0.6450</td>
<td>0.7450</td>
<td>0.8325</td>
<td>0.4433</td>
<td>1.0000</td>
</tr>
</tbody>
</table>
Comparing the five variable-level indices with each other, it can be observed that the financial and organisational autonomy variable (D) scores overall the minimum value of independence, and that the competencies variable (C) scores overall the maximum value.
of independence, followed by the relationship with government and parliament variable (C).

Table 21 displays the overall independence index of 46 national media regulatory agencies.

<table>
<thead>
<tr>
<th>Country</th>
<th>Overall independence index (low to high)</th>
<th>Country</th>
<th>Overall independence index (low to high)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Luxembourg</td>
<td>0.3620</td>
<td>Czech Republic</td>
<td>0.7332</td>
</tr>
<tr>
<td>Norway</td>
<td>0.3750</td>
<td>Malta</td>
<td>0.7493</td>
</tr>
<tr>
<td>Switzerland</td>
<td>0.4040</td>
<td>Croatia</td>
<td>0.7508</td>
</tr>
<tr>
<td>Ukraine</td>
<td>0.4456</td>
<td>Albania</td>
<td>0.7510</td>
</tr>
<tr>
<td>Denmark</td>
<td>0.4487</td>
<td>France</td>
<td>0.7570</td>
</tr>
<tr>
<td>Liechtenstein</td>
<td>0.5643</td>
<td>Romania</td>
<td>0.7645</td>
</tr>
<tr>
<td>Sweden</td>
<td>0.5718</td>
<td>Armenia</td>
<td>0.7806</td>
</tr>
<tr>
<td>Azerbajian</td>
<td>0.5813</td>
<td>Austria</td>
<td>0.7817</td>
</tr>
<tr>
<td>Kosovo</td>
<td>0.5861</td>
<td>Bosnia-Herzegovina</td>
<td>0.7875</td>
</tr>
<tr>
<td>Moldova</td>
<td>0.5863</td>
<td>Latvia</td>
<td>0.8045</td>
</tr>
<tr>
<td>Belgium</td>
<td>0.5911</td>
<td>Ireland</td>
<td>0.8251</td>
</tr>
<tr>
<td>Cyprus</td>
<td>0.5977</td>
<td>Serbia</td>
<td>0.8313</td>
</tr>
<tr>
<td>Poland</td>
<td>0.6062</td>
<td>Georgia</td>
<td>0.8483</td>
</tr>
<tr>
<td>Slovakia</td>
<td>0.6807</td>
<td>Portugal</td>
<td>0.8597</td>
</tr>
<tr>
<td>Iceland</td>
<td>0.6820</td>
<td>Italy</td>
<td>0.8815</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>0.6862</td>
<td>Lithuania</td>
<td>0.8832</td>
</tr>
<tr>
<td>Finland</td>
<td>0.6879</td>
<td>Hungary</td>
<td>0.8863</td>
</tr>
<tr>
<td>UK</td>
<td>0.7048</td>
<td>Spain</td>
<td>0.8897</td>
</tr>
<tr>
<td>Greece</td>
<td>0.7072</td>
<td>Germany</td>
<td>0.8980</td>
</tr>
<tr>
<td>Netherlands</td>
<td>0.7178</td>
<td>Montenegro</td>
<td>0.9015</td>
</tr>
<tr>
<td>Turkey</td>
<td>0.7197</td>
<td>Macedonia</td>
<td>0.9315</td>
</tr>
<tr>
<td>Slovenia</td>
<td>0.7215</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Chapter 5

The cross-country variation in the formal independence of national media regulators is displayed in Figure 14. The aggregated country-specific results showed cross-national variations in the formal independence of media regulators. Therefore, Hypothesis 1 was fully confirmed.

Furthermore, I used these results to group countries according to the extant typologies of media systems and political systems. Since the Gillardi’s index of formal independence considers ordinal data, I compared the data running either Kruskal-Wallis H or Mann-Whitney U tests (depending on the number of levels of the independent variable). I tested Gillardi’s index of the countries under consideration for differences among (1) media systems, types of (2) executive, (3) legislature, (4) electoral systems, and (5) party systems.

The forthcoming sections introduce the main findings.
Figure 14. Variations in formal independence of NRAs across countries
5.3.3 Cross-country variations in formal independence across media systems

Operationalisation of media systems for quantitative analysis presented several challenges. Transition countries in Central Europe, Western Balkans, and South-East Europe were not included in Hallin and Mancini’s (2004) study of media systems. Although there is a consensus in the literature concerning ‘the nature of the Polarised-Pluralist model and its applicability for many media systems beyond the Western world’ (Jakubowicz, 2007), for the purpose of the analysis I initially considered the countries in Central-Eastern Europe and the Balkans as two separate categories rather than including them in the Polarised-Pluralist model.

The test showed that there are similarities in the levels of formal independence of Polarised-Pluralist and transition countries, as displayed in Figure 15. Hence, the assumption that the latter conforms to the Polarised-Pluralist typology was valid and it was accurate to operationalise the media system in transition countries as a Mediterranean one.

In the second phase of testing the variations in formal independence of regulatory agencies across media systems, I merged the two residual categories (countries in Central-Eastern Europe and the Balkans) into the Polarised-Pluralist model.

Gilardi’s index was statistically significantly different between different media systems, $\chi^2(2) = 6.621$, $p = .037$. Pairwise comparisons were performed using Dunn’s (1964) procedure with a Bonferroni correction for multiple comparisons. Gilardi’s index was statistically significantly different between Polarised-Pluralist and Democratic-Corporatist models of media system ($p = .031$), and the results are displayed in Figure 16.
Figure 15. Variations in formal independence of NRAs across media systems (extended)
Figure 16. Variations in formal independence of NRAs across media systems
Chapter 5

Hypothesis 2, which advanced causal relations among constellations of media systems and the regulatory independence embedded in the institutional design of media regulators, was fully confirmed. The media systems macro-variable is strongly significant, and the effect on media regulatory agencies’ independence is positive, as hypothesised. In this respect, it can be affirmed that this variable validates the initial assumption that Hallin and Mancini’s (2004) theory on media systems has a strong explanatory relevance for the cross-country variation in formal independence of NRAs.

5.3.4 Cross-country variations in formal independence across political systems

5.3.4.1 Executive systems

Gilardi’s index was statistically significantly different between different types of executive systems, $\chi^2(4) = 13.221, p = .010$. Pairwise comparisons were performed using Dunn's (Dunn, 1964) procedure with a Bonferroni correction for multiple comparisons. Gilardi’s index was statistically significantly different between the parliamentary and constitutional monarchies types of executive (p = .041).

Figure 17 displays the variation in formal independence across executive systems.
Figure 17. Variations in formal independence of NRAs across executive systems
Hypothesis 3.1, which advanced causal relations among types of executive systems and the regulatory independence embedded in the institutional design of media regulators, was fully confirmed. The executive systems variable is strongly significant, and the effect on media regulatory agencies’ independence is positive, as hypothesised.

5.3.4.2 Legislatures

Gilardi’s index was not statistically significantly different between different types of legislature, U = 211, z = 0.423, p = .672. Figure 18 displays the variation in formal independence across legislatures.

Hypothesis 3.2, which advanced causal relations among legislatures and the regulatory independence embedded in the institutional design of media regulators, was not confirmed. The legislature variable is not significant, and the effect on media regulatory agencies’ independence is negative, contrary to the hypothesised positive impact.
Figure 18. Variations in formal independence of NRAs across legislatures
5.3.4.3 Electoral systems

Gilardi’s index was not statistically significant different between different types of electoral systems, $\chi^2(3) = 0.393, p = .942$. Figure 19 displays the variation in formal independence across electoral systems.

Hypothesis 3.3, which advanced causal relationships between electoral systems and the regulatory independence embedded in the institutional design of media regulators, was not confirmed. The electoral systems variable is not significant, and the effect on media regulatory agencies’ independence is negative, contrary to the hypothesised positive impact.
Figure 19. Variations in formal independence of NRAs across electoral systems
5.3.4.4 Party systems

Gilardi index was not statistically significant different between different types of party systems, $U = 106$, $z = 0.417$, $p = .677$. Figure 20 displays the variation in formal independence across party systems.

Hypothesis 3.4, which advanced causal relationships among party systems and the regulatory independence embedded in the institutional design of media regulators, was not confirmed. The party systems variable is not significant, and the effect on media regulatory agencies’ independence is negative, contrary to the hypothesised positive impact.
Figure 20. Variations in formal independence of NRAs across party systems
5.4 Conclusion

In this chapter, I have outlined the main empirical findings on the cross-country variations in formal independence of state media regulatory authorities across Europe, providing answers to the research questions RQ3, RQ4 and RQ5. The units of analysis were 46 national media regulators from 43 countries which had been established by the end of the year 2013.

To capture formal independence, the dependent variable in this study, I have replicated the independence index developed by Gilardi (2002). The five dimensions covered in the analysis were: the status of the agency head; the status of the management board; relationship with government and parliament; financial and organisational independence, and regulatory competencies. The independent variables were the media systems and political systems. To measure the correspondence between media systems, political systems, and formal independence, I divided the countries by particular types of media systems and by particular choices of executive structure, legislature, political parties and electoral systems. It has been demonstrated that institutional differences among NRAs mirror different levels of formal independence which varies across (1) countries, (2) media systems, and (3) political systems.

The statistical analysis on the variations in formal independence revealed significant cross-national differences. Hypothesis 1 (H1) was fully supported. At the same time, Hypothesis 2 (H2) was also fully confirmed. NRAs in the Polarised-Pluralist model of media systems score the highest levels in formal independence, in comparison to Democratic-Corporatist and Liberal models. On the other hand, the macro-variable political system employed to test the third set of hypotheses (H3) was found to be significantly correlated with the cross-country variations in formal independence only in part. Results showed positive correlations between formal independence and types of executive, but they do not confirm the hypothesised correlations between formal independence and legislatures, electoral systems, and party system variables.

In the forthcoming Chapter 5, I discuss the major findings of both the cross-country comparative analysis introduced in Chapter 4, and the empirical findings presented in Chapter 5, in greater detail.
Chapter 6  Discussion of Results

6.1 Introduction

This chapter offers an overview of the main findings of this dissertation and discusses the key results in light of the analyses conducted in Chapters 4 and 5.

In order to make the discussion of results clear and easy to follow, the forthcoming sections discuss the main findings corresponding to the specific research questions and hypotheses. First, Section 6.2 presents a brief summary of results presented in previous chapters. Section 6.3 discusses the results on the cross-country variations in formal independence, and Section 6.4 concludes the chapter.

6.2 Summary of results

This dissertation provides a preliminary analysis of the interactions between institutional patterns of national media regulators and formal independence. The study aims to map the institutional variations of NRAs, and to assess the interplay between political systems, media systems and formal independence. The analysis is based on six research questions, which have been thoroughly investigated in Chapter 4 and Chapter 5.

Chapter 4 introduces the results generated from the cross-country comparative analysis intended to provide a revised typology of national media regulators. It outlines answers to the first two research questions advanced in the introductory chapter.

Table 22 displays the summary of key findings for RQ1 and RQ2:
Table 22. Key findings for Research Questions 1 and 2

<table>
<thead>
<tr>
<th>Standard models of institutional design</th>
<th>1 Single-sector regulators (36 countries)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2 Converged regulators (10 countries)</td>
</tr>
<tr>
<td></td>
<td>3 Multi-Sector regulators (2 countries)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Legal status</th>
<th>1 Separate legal entities (37 countries)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2 Separate legal entities, subordinated to a ministry (6 countries)</td>
</tr>
<tr>
<td></td>
<td>3 Quasi-separate entities (3 countries)</td>
</tr>
<tr>
<td></td>
<td>4 Residual categories (2 countries)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PSB vs. Commercial TV regulation</th>
<th>1 Both (39 countries)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2 Only PSB or only Commercial TV (7 countries)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Management structure</th>
<th>1 Board (42 countries)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2 Single individual structure (6 countries)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Appointment</th>
<th>1 No nomination stage (countries)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2 With nomination stage (35 countries)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Financial resources</th>
<th>1 State budget (21 countries)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2 Mixed sources (17 countries)</td>
</tr>
<tr>
<td></td>
<td>3 Industry fees (11 countries)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Checks and balances</th>
<th>1 Reporting to Parliament (20 countries)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2 Reporting to Government (8 countries)</td>
</tr>
<tr>
<td></td>
<td>3 Reporting to Parliament and Government</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4 No formal obligations (5 countries)</td>
</tr>
</tbody>
</table>

As it can be observed in Table 22, the institutional frameworks of NRAs vary across countries. As already discussed in Chapter 4, I have identified three models of institutional design: the single-sector regulator; the converged regulator, and the multi-sector regulator. The prevailing model of NRA is the independent regulatory body specialising in both public system broadcasting and commercial broadcasting. Media regulators conform to four standard models with regard to the formal requirements for independence. Agencies function either as legal separate entities, legal separate entities subordinated to ministries, partly separate legal entities, or as units integrated within the ministry with no legal separate status.

Overall, media regulators are governed by a board, in the majority of cases, or an individual. No model is found to be predominant for the appointment procedures. A large majority of regulators have general policy-implementing functions. Funding is
derived from the state budgets or other sources, and most regulators are accountable to Parliament.

Chapter 5 outlines the findings generated by the empirical analysis on the cross-country variations in formal independence of media regulators. It provides answers to a set of four research questions advanced in the introductory chapter. The statistical analysis fully confirms two out of the three hypotheses advanced in Chapter 2, as summarised in Table 23.

### Table 23. Summary of the hypotheses

<table>
<thead>
<tr>
<th>Hypotheses</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>H1 Formal independence of national media regulators varies across countries.</td>
<td>Supported</td>
</tr>
<tr>
<td>H2 Differences across media systems explain the cross-country variations in formal independence of national media regulators.</td>
<td>Supported</td>
</tr>
<tr>
<td>H3 Differences across political systems explain the cross-country variations in formal independence of national media regulators.</td>
<td>Partially supported</td>
</tr>
<tr>
<td>H3.1 Differences across electoral systems explain the cross-country variations in formal independence of national media regulators.</td>
<td>Not supported</td>
</tr>
<tr>
<td>H3.2 Differences across executive systems explain the cross-country variations in formal independence of national media regulators.</td>
<td>Supported</td>
</tr>
<tr>
<td>H3.3 Differences across legislative systems explain the cross-country variations in formal independence of national media regulators.</td>
<td>Not supported</td>
</tr>
<tr>
<td>H3.4 Differences across party systems explain the cross-country variations in formal independence of national media regulators.</td>
<td>Not supported</td>
</tr>
</tbody>
</table>

In the following sections I discuss the key findings of the study at length.

### 6.3 Interpretation of the findings

#### 6.3.1 Cross-country variations in formal independence

The empirical analysis of Chapter 4 on the variation in formal independence reveals significant cross-national differences. Hypothesis 1 is fully supported and corroborates the results of the previous literature that have been discussed in Chapter 2 (Cambini &

The formal independence scores calculated in Chapter 4 by replicating Gilardi’s (2002) index show that most of the national media regulators were granted considerable independence concerning their competencies and their relationship with government and parliament.

A closer look at the five variable-level indices reveals that the overall scores of formal independence regarding the financial and organisational autonomy variable are in general the lowest in comparison with both the competencies and relationship with government and parliament variables. Only four agencies out of 46 regulators score low levels in formal independence with regard to the competencies variable. Similarly, 29 media regulators score low values in formal independence regarding the financial and organisational autonomy variable, while 27 media regulators score high values in formal independence regarding the relationship with government and parliament. The analysis suggests that two indicators are conducive to major variations in the overall scores of formal independence: the financial and organisational autonomy variable and the relationship with government and parliament variable. Why is this? How are these two variables linked?

It appears that in countries where the budget of media regulators depends on external funding (for instance, in Bosnia-Herzegovina, Croatia, Germany, Georgia, Hungary, Ireland, Lithuania, Montenegro, Macedonia, Serbia, and Spain), the NRAs’ formal independence regarding accountability to Parliament has a low score.

Conversely, in cases where the budget of NRAs depends exclusively on state funding, the NRAs’ formal independence regarding accountability to Parliament is very high. However, since the annual reports presented by the agencies do not need approval from the Government, but the annual reports presented by the agencies do need approval from the Parliament, NRAs are more formally independent in relation to the Government, and less formally independent in relation to the Parliament. Table 24 displays the countries with high formal independence regarding the accountability towards the Government and Parliament at a variable level.
Table 24. High formal independence: accountability towards Government and Parliament (variable level)

<table>
<thead>
<tr>
<th>Accountability towards</th>
<th>Government</th>
<th>Parliament</th>
</tr>
</thead>
<tbody>
<tr>
<td>Countries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Albania</td>
<td></td>
<td>Denmark</td>
</tr>
<tr>
<td>Armenia</td>
<td></td>
<td>Germany</td>
</tr>
<tr>
<td>Austria</td>
<td></td>
<td>Finland</td>
</tr>
<tr>
<td>Bulgaria</td>
<td></td>
<td>Iceland</td>
</tr>
<tr>
<td>Croatia</td>
<td></td>
<td>Luxembourg</td>
</tr>
<tr>
<td>Czech Republic</td>
<td></td>
<td>Latvia</td>
</tr>
<tr>
<td>Denmark</td>
<td></td>
<td>The Netherlands</td>
</tr>
<tr>
<td>Germany</td>
<td></td>
<td>Latvia</td>
</tr>
<tr>
<td>Finland</td>
<td></td>
<td>Norwa</td>
</tr>
<tr>
<td>Greece</td>
<td></td>
<td>Norway</td>
</tr>
<tr>
<td>Ireland</td>
<td></td>
<td>Poland</td>
</tr>
<tr>
<td>Iceland</td>
<td></td>
<td>Portugal</td>
</tr>
<tr>
<td>Italy</td>
<td></td>
<td>Romania</td>
</tr>
<tr>
<td>Kosovo</td>
<td></td>
<td>Serbia</td>
</tr>
<tr>
<td>Lithuania</td>
<td></td>
<td>Turkey</td>
</tr>
<tr>
<td>Luxembourg</td>
<td></td>
<td>UK</td>
</tr>
</tbody>
</table>

Therefore, it can be concluded that the more financial formal independence a regulator enjoys, the less formal independence it has with regard to its relationship with Parliament. This finding contradicts the prior studies regarding the source of income, which show that agencies which largely control their own income have more autonomy, are subject to less control, and use management techniques to a greater extent than agencies which control a small proportion of their own incomes (Verhoest, Roness, Verschuere, Rubecksen, & MacCarthaigh, 2010).

How does the approval process of annual reports work at the parliamentary level? The comparative analysis introduced in Chapter 4 shows that different countries have different approval processes. In the majority of the countries where the budget of the NRA is part of the overall state budget, the budget is proposed by the Government and subsequently approved by Parliament.

For instance, in Bulgaria, the NRA submits its draft budget to the Ministry of Finance for review and approval, and then sends it to Parliament. In Slovakia, the budget is proposed by the Finance Minister, and requires formal approval from Parliament. The NRA in Portugal is accountable to Parliament, to whom it presents an annual report on regulation, its activities and budget. In Sweden, the annual budget is set by Government, with parliamentary approval.
With respect to the variable regulatory competencies, the analysis shows that the majority of NRAs score the maximum level of formal independence. This arises because legislatures set broad regulatory policy, which NRAs implement, rather than having the power to set policy themselves. As a result, regulators score high levels of formal independence in relation to Government and Parliament.

6.3.2 Media systems and the cross-country variation in formal independence

The macro-variable media system employed to test Hypothesis 2 is found to correlate significantly with the cross-country variation in formal independence of national media regulators. Hypothesis 2 is thus fully confirmed. NRAs in the Polarised-Pluralist model of media systems score the highest levels in formal independence, in comparison with Democratic-Corporatist and Liberal models. As suggested in Chapter 1, the taxonomy of media systems proposed by Hallin and Mancini (2004) evidences high explanatory potential.

The results introduced in Chapter 5 are particularly interesting because national media regulators in Central, Eastern and Southern Europe, operationalised as the Polarised-Pluralist model, are perceived as being under the strong *de facto* control of politicians (Dobek-Ostrowska & Glowacki, 2008; Jakubowicz, 1996, 1998, 2007). In contrast, although the levels of formal independence are low in Democratic-Corporatist countries, there is ‘a strong *de facto* culture of independence’ that compensates for the ‘low level of rules’ (Jakubowicz, 2012).

In the theoretical discussion provided in Chapter 2, I have compared the three media models as developed by Hallin and Mancini (2004) at length. It was argued that in the Democratic-Corporatist media system, the state is regarded as the guardian of freedom and justice, and political parallelism has coexisted with a high degree of journalistic professionalisation. Similarly, in the Liberal countries, the role of the state is limited, commercial media is highly developed, and a strong professionalisation of journalism. The media have been institutionally separate from political parties and other organised social groups.
In contrast, the media systems in Polarised-Pluralist countries share a number of characteristics that distinguish them from the above-mentioned models: late democratisation, incomplete or little advanced modernisation, weak rational-legal authority, and underdevelopment of capitalism (Statham, 1996; Marletti & Roncarolo, 2000; Papatheodorou & Machin, 2003; Mancini, 2000a; Hallin & Papathanassopoulos, 2002).

The implications of the findings of this study could be best discussed in relation to media regulatory independence in southern and post-communist countries in Europe. What accounts for the incongruity between de jure and de facto independence of NRAs in these states?

A possible answer can be formulated based on prior theoretical findings discussed in Chapter 2. Developing Jakubowicz’s (2012) idea of ‘the culture of independence’, it can be asserted that enforcing formal regulatory independence through particular institutional designs is explicitly important, although not completely effective, in countries which have experienced a late transition to democracy, political instability and repression. De jure independence does not guarantee independence in practice, as empirically assessed by several scholars (Maggetti, 2007; Stern, 1997).

Consequently, more formal rules are needed in countries with a low ‘culture of independence’, in order to protect against political interferences. As Jakubowicz (2012) points out, in the Polarised-Pluralist media system, national media regulators are:

[a] direct extension of the political power structure. The composition of regulatory authorities directly mirrors the political makeup of the parliament and government of the day. Although usually the legislation describes them as ‘independent’, in reality they are ‘winner-take-all’ institutions and their independence is open to doubt. (p. 28)

Southern and Eastern European countries display features of ‘state paternalism’ or ‘political clientelism’, which are intimately connected with the late development of democracy (Hallin & Mancini, 2004). The rational-legal authority is less developed than in Democratic and Liberal countries, where rational-legal forms of authority decreased
the need for political élites to exert pressure. Most countries in Western Europe have developed self-regulatory institutions that separate public broadcasting from the direct control of the political majority. In Eastern and Southern Europe, the state has functioned as censor, has owned media enterprises, and has made use of a number of intervention methods (Harcourt, 2003a).

The composition of NRAs in these countries has been systematically politicised with regard to appointment procedures and members’ affiliations to political parties. Poland, Romania, Hungary, Albania, and Italy are just some countries where board members always have political affiliations, despite laws prohibiting membership of a political party (Indireg Report, 2011).

For example, in Bulgaria the interplay between political, judicial, business and media bodies has shaped regulatory practices, as emphasised by Smilova, Smilov, and Ganev (2012). The authors argue that ‘the control over the media is one of the major instruments of political parties to solve their identity problems and to prevent the opposition from establishing and consolidating itself’ (ibid., p.47). Another example is given by Psychogiopoulou and Anagnostou (2012), who point out that governments in Greece delegate regulatory independence to media regulators, but do not empower the NRAs with substantive policy-making powers in terms of being able to formulate rules (p. 146). Moreover, the politicised appointment procedures reflect the ‘wish of successive governments to retain control’ (id.).

In Romania, the shift from a media captured by the state to a media captured by private political interests has been critically analysed (Mungiu-Pippidi & Ghinea, 2012). As the authors observe, although the NRA is formally autonomous, these arrangements do not ‘prevent politicisation and political wars around the institution’ (p. 169).

Reiterating Jakubowicz’s (1998) remarks on the tensions between the normative approaches on media and the actual regulatory regimes (for an in-depth discussion, see Section 2.4), it could be argued that the media changes in Polarised-Pluralist countries do reflect the key ‘problems of transition’. As already debated in Chapter 2, the shift from the state control to the liberalisation of markets was deficient in these countries,
which resulted in high political polarisation, and low levels of independence for regulatory agencies.

The ‘problems of transition’ as defined by Jakubowicz (1998) can also be understood in Harcourt’s (2003b) terms as the ‘battle of the [regulatory] models’ imposed by the United States and Europe. According to Harcourt (2003b), the media markets of Central and Eastern Europe developed in a ‘regulatory vacuum’, which provides some explanation for the emergence of independent media regulators in this region.

Prior research has emphasised that the establishment of independent regulatory bodies in post-communist countries has been subject to a diffusion process (Gilardi, 2005b; Levi-Faur, 2005). According to Gilardi (2005), the spread of independent NRAs in transition countries can be partially explained by the credibility and political uncertainty issues, the policy initiatives from the European Union level and international organisations, and the interdependencies among countries. Formal independence may provide the media regulators with access to transnational/European regulatory networks, which in turn may support independence from national governments.

Setting up regulatory authorities with strong formal requirements for independence can also be the result of ‘best practices’ formulated by the European Commission, the European harmonisation legislation and Europeanisation processes (Indireg Report, 2011). Characteristics and best practices of independent regulatory bodies for the audiovisual sector cover several areas including: status and power; financial autonomy; autonomy of decision makers; knowledge, accountability and transparency mechanisms.

### 6.3.3 Political systems and the cross-country variation in formal independence

The macro-variable political system employed to test the third set of hypotheses is found to be significantly correlated with the cross-country variation in formal independence only in part. Results show positive correlations between formal independence and types of executive, but do not find correlations between formal independence and legislatures, electoral systems, and party system variables. The
taxonomy of political systems reviewed in Section 2.7.2 appears to offer little explanatory potential.

As stressed in the previous chapters, little attention has been paid to media regulatory independence as an outcome of political and institutional factors. However, the findings of this study are supported by earlier evidence. The results of the empirical analysis introduced in Chapter 5 are in line with Hanretty’s (2010) measurements, who has shown that neither de jure nor de facto independence of public service broadcasters is influenced by the polarisation of party systems.

Drawing upon the aforementioned findings related to the variation in formal independence at a variable level, particularly with regard to the relationship between media regulators, government and parliament variable, it could be argued that the control Parliaments exert over NRAs influence the various levels of agencies’ formal independence. As explained by Verhoest et al. (2010), forms of parliamentary control include, among others, hearings of agencies heads, formal reporting, and financial and performance auditing obligations.

Another plausible explanation for the results of the third set of hypotheses finds support in prior work citing political systems constellations as a correlate of certain media systems. For example, Jakubowicz (1998, 2012) explores the nexus between media systems, political systems and media independence. He focuses on a sample of 22 post-communist countries, suggesting significant relationships between the composition of NRA boards and the types of executive structure and electoral systems.

Jakubowicz (2012) shows that in formal terms, the institutional settings that emerged from the constitutional change in transition countries range from parliamentary to presidential democracies. Central and Eastern European countries have opted for a proportional or hybrid electoral system, while most of the ex-Soviet republics, except for the Baltic States and Moldova, have chosen a type of majoritarian rule. In parliamentary systems, members of NRAs are appointed by Parliament, together with the President (Ukraine, Bulgaria, Poland), or together with the President and the Prime Minister (Moldova). In presidential systems, although the candidates are nominated by
Parliament, the appointing decision is taken by the president (Armenia, Azerbaijan, Georgia, Czech Republic and Moldova).

### 6.4 Conclusion

In this chapter, I have thoroughly discussed the main findings of this dissertation, in light of the comparative analysis presented in Chapter 4, and the cross-country empirical investigation presented in Chapter 5. The study aims to map the institutional variety of NRAs, and to assess the interplay between political systems, media systems and formal independence.

On the one hand, the empirical analysis on the variation in formal independence reveals significant cross-national differences. The formal independence scores show that most of the national media regulators were granted considerable independence concerning their competencies and their relationship with Government and Parliament. The analysis suggests that the more financial formal independence a regulator enjoys, the less formal independence it benefits from in its relationship with Parliament. This finding contradicts prior studies regarding the source of income, which show that agencies which largely control their own income have more autonomy, are subject to less control, and use management techniques to a greater extent than agencies which have less control over income (Verhoest et al., 2010).

On the other hand, the study advanced a straightforward link between the types of media systems, politico-administrative regimes, and regulatory formal independence. NRAs in the Polarisated-Pluralist model of media systems score the highest levels in formal independence, in comparison to Democratic-Corporatist and Liberal models. The macro-variable political system was found to be significantly correlated with the cross-country variations in formal independence only in part. This evidence finds support in prior work citing constellations of political systems as a correlate of certain media systems. Jakubowicz (1998, 2005, 2012) developed arguments on the nexus between media systems, political systems and media independence, suggesting significant relationships between the composition of board members of NRAs and the types of executive structure and electoral systems in several post-communist countries.
Chapter 6

To sum up, the major results on the cross-country variations in formal independence find support in prior research on. Media systems taxonomy was proven to be strong with respect to its explanatory potential. In contrast, the framework of political systems was proven to have a weak explanatory potential.

The forthcoming Chapter 7 concludes this dissertation.
Chapter 7  Conclusions

7.1 Main arguments and findings

The purpose of this dissertation is to provide a first systematic account of the interplay between the independence of National Regulatory Authorities for the audiovisual sector, national media traditions, and political institutional actors across different European states. I focus on national media regulators because they represent the key players governing the audiovisual sector, and yet they have not been extensively examined until now.

As highlighted in the introductory chapter, there are very few studies dealing with the formal regulatory independence derived from the institutional structures of NRAs. Little systematic research has been done so far, although there is a growing body of literature that acknowledges the importance of studying the typologies of media and political systems and their potential influence on regulatory independence. Factors influencing the formal independence of NRAs, such as the traditions underpinning national media systems or administrations, have been hypothesised, but have never been tested on a sample of regulatory agencies for the audiovisual sector.

The review of the theoretical framework in Chapter 2 examines three different strands of academic scholarship—literature on regulatory agencies, theories of media systems and of political systems—and highlights the ongoing dialogue regarding the importance of studying the regulation of the audiovisual sector. I formulated questions and hypotheses based on the gaps perceived in the existing academic literature.

The first two research questions (RQ1 and RQ2) derive from the major theoretical gap observed in prior research: the lack of systematic comparative studies on the institutional design of NRAs. The next three research questions (RQ3, RQ4, and RQ5) arose from the lack of empirical data for national media regulators in the current literature. In order to answer these research questions, the investigation employs variable-oriented research design to explore the links between the formal independence
of national media regulators, and the constellations of media systems and political systems.

In Chapter 3, the operationalisation of the main variables and the methodology proposed to address the theoretical and empirical questions was discussed. A cross-national comparative study of the institutional design of 46 media regulators in 43 countries was proposed in order to analyse the variation in the formal independence of NRAs. The cases were selected following the variable-oriented method, which was employed to test a limited number of variables in a large-N study. The dependent variable was the formal or de jure political independence of national media regulators. The degree of regulatory independence was measured with Gilardi’s (2002) index of formal independence. The independent macro-variables were the media systems and political systems, which were expected to explain the cross-national variation in formal independence of NRAs for the audiovisual sector.

The criteria for case sampling were drawn from the literature on independent regulatory agencies. Data was collected and synthesised from multiple sources. The data gathered on institutional design, funding mechanisms, accountability, and competencies was used to operationalise the index of formal independence of national media regulators. The study’s biggest limitations were the methods of data collection, financial constraints, difficulties in identifying and accessing relevant documents, and language limitations.

The results of the cross-country comparative analysis presented in Chapter 4 address the theoretical gap on the institutional settings of NRAs. The main purpose of the extensive investigation is to provide a revised typology of national media regulators, complementing current classifications. The cross-country comparative analysis focused on the institutional setups of formal criteria regarding the institutional, legal and regulatory framework of state media regulatory authorities.

The analysis revealed three main models of institutional design of NRAs: the single-sector regulator (36 cases); the converged regulator (10 cases), and the multi-sector regulator (two cases). Four standard models of NRAs were identified with regard to the requirements for independence. Regulators function as either: legal separate entities (37 cases); legal separate entities subordinated to a ministry (six cases); partly separate legal
entities (three cases), or units integrated within the ministry with no legal separate status (two cases). Independence can be implicitly or explicitly recognised as a value.

The prevailing institutional model is the independent regulator specialising in both public system broadcasting and commercial broadcasting (39 cases). The highest decision-making organ of the regulatory body is either a board (42 cases) or an individual (six cases).

Various appointment models exist. The appointment is preceded by a nomination stage in 35 countries, while there is no formal nomination stage in 13 states. Funding is derived from state budgets (21 cases), mixed sources (17 cases), and industry fees (11 cases). Most of the regulators are accountable to Parliament (20 cases). NRAs do have general policy-implementing functions.

The results of the empirical analysis on the cross-country variations in formal independence are presented in Chapter 5. Based on the revised typology of institutional arrangements introduced in Chapter 4, I replicated the independence index developed by Gilardi (2002). The five elements covered in the analysis were: the status of the agency head; the status of the management board; relationship with Government and Parliament; financial and organisational independence, and regulatory competencies. It has been demonstrated that institutional differences among NRAs mirror different levels of formal independence which varies across countries, media systems, and political systems.

The statistical analysis on the variations in formal independence revealed significant cross-national differences. Hypothesis 1 (H1) and Hypothesis 2 (H2) were both fully confirmed. NRAs in the Polarised-Pluralist media system model score the highest levels of formal independence when compared with Democratic-Corporatist and Liberal models. However, the macro-variable political system employed to test the third set of hypotheses (H3) was found to be significantly correlated with the cross-country variation in formal independence only in part. Results showed positive correlations between formal independence and types of executive, but they do not confirm the hypothesised correlations between formal independence and legislatures, electoral systems, and party system variables.
Chapter 6 critically reviews the main findings of this dissertation in the light of the extant academic literature. The empirical analysis of the variations in formal independence reveals significant cross-national differences. The formal independence scores show that most of the national media regulators were granted considerable independence with regard to competencies and their relationship with Government and Parliament. The analysis suggests that the more financial formal independence a regulator enjoys, the less formal independence it has in its relationship with Parliament. This finding contradicts prior studies on income sources, which have shown that agencies with a large amount of their own income have more autonomy, are subject to less control, and use management techniques to a greater extent than agencies which manage a small proportion of their own incomes (Verhoest et al., 2010).

The study also advanced a nexus between the types of media systems, politico-administrative regimes, and regulatory formal independence. NRAs in the Polarised-Pluralist model of media systems score the highest levels of formal independence when compared with Democratic-Corporatist and Liberal models. The macro-variable political system was found to be significantly correlated with the cross-country variation in formal independence in part. This evidence finds support in prior work citing constellations of political systems as a correlate of some media systems. Jakubowicz (1998, 2005, 2012) developed arguments on the nexus between media systems, political systems and media independence, suggesting significant relationships between the composition of NRA boards and the types of executive structure and electoral systems in several post-communist countries.

What can be learned from the results of this study in relation to other recent research and theories with regard to regulatory agencies and media independence?

First, this dissertation supports the previous research on the cross-country variations in formal independence of regulatory bodies. Second, it finds a direct link between the types of media systems and the variation in formal independence of national media regulators. Third, it accounts for the relationships between politico-administrative regimes and regulatory independence. Additionally, the taxonomy of media systems is
proven to demonstrate a strong explanatory potential, in contrast to the framework of political systems which is proven to have a weak explanatory potential.

**7.2 Main contributions**

This dissertation contributes both theoretically and empirically to the academic literature on National Regulatory Authorities.

The most significant theoretical contributions can be attributed to the interdisciplinary approach used to explore and understand how national media regulators function, to measure their independence, and to determine how their regulatory independence is influenced by various factors. In particular, the hypotheses advanced regarding the causal relationships between media systems and political systems are framed in an original way.

This dissertation introduces the first empirical validation of the groundbreaking theory on media systems advanced by Hallin and Mancini (2004). Considered to be the most influential contribution in the media and communication area, this theory had not yet been tested on the regulatory agencies for the audiovisual sector, although it offers a preliminary interpretation of media and political systems as explanatory factors for the regulatory independence of media regulators.

This study also introduces the first empirical validation of political explanations which consider the institutional design and the independence of regulatory agencies as functions of political factors or of national administrative traditions (Pollitt & Bouckaert, 2000). Again, this hypothesis has never been verified on a sample of media regulators.

Secondly, in terms of significant empirical contributions, this dissertation constitutes the most extensive, systematic cross-country comparative study of independent media regulatory agencies across Europe. As highlighted in Chapter 2, most work to date has focused on a limited number of regulatory institutions, which poses difficulties in providing an overall, comprehensive perspective. An innovative contribution of this study is the creation of both an original data set on the institutional settings of national
media regulators, and an original index of formal independence built by adapting an independence index developed by Gilardi (2002). Consequently, both the data set and the independence index are potentially useful in a number of ways to future research.

In sum, this study gives a rich and theoretically relevant view of formal independence of NRAs for the audiovisual sector that not only addresses unanswered questions, but also opens up challenging avenues for future research.

7.3 Limitations of the thesis

As outlined in Section 3.10, the biggest limitation of the thesis was the choice of data collection methods, which was subject to constraints in time, financial resources, difficulties in identifying and accessing relevant documents, as well as language limitations.

Firstly, owing to the comparative nature of this work, the timing of data collection had to be considered. The data I gathered on the institutional design of media regulators reflects the situation as of December 2013. Changes in the legislative framework that have occurred since December 2013 are not reflected in the data set and were excluded from the analysis.

Secondly, the emergent nature of the media regulation area of research introduced a level of bias due to the lack of standardised definitions and key concepts. The nonequivalence of key terms or concepts represented a major challenge: for example, the independence of the media generally refers to freedom of speech in the field of media studies while, for scholars of politics and regulation, it refers to the safeguards institutionalised by formal setups and legislative frameworks.

Thirdly, the sample size was limited owing to a lack of available data.

The different languages spoken in the countries examined in this study provided another hurdle. It was important to find conceptual equivalence rather than literal meaning. In cases where the concept or the term could not be translated exactly, I avoided any attempt to have lexical equivalence and tried to locate a term that met the definition of
that concept. This was the case for the legal provisions regarding the appointment process, checks and balances, and funding mechanisms.

### 7.4 Implication for future analysis and research

Departing from this study, further analyses could be carried out on the new data set for the institutional settings of national media regulators introduced in this dissertation in order to improve or refine the major findings.

With regard to the empirical analysis on the cross-country variations in formal independence, an interesting avenue would consist on comparing *de jure* and *de facto* independence of national media regulators. Further analyses could explore factors that are proven to determine the actual independence of regulatory agencies, such as political salience and policy complexity (Epstein & Segal, 2000), the age of the agencies, membership of European networks, and the number of veto players in the polity (Tsebelis, 1995), the size of the regulatory agencies, and the country’s politico-administrative tradition (Christensen & Lægreid, 2007; Yesilkagit & Christensen, 2010).

Possible explanations for the similarities and differences in institutional design choices of media regulators could be argued based on the concept of path dependency in historical institutionalism. Case studies on the political and administrative contexts could provide interesting avenues for explaining variations across countries or sectors. In addition, the replication of the formal independence index for cross-sectorial analyses could also provide valuable insights regarding the regulatory independence of state regulatory authorities.

Furthermore, significant advances would be made by finding a comprehensive way to measure whether the regulatory independence of national media regulators has an impact on media policy outcomes, and whether in the various institutional contexts of media regulation and governance the civil society organisations play any role in shaping media policy. There is a wide scholarly debate on the government regulation of the media sector, and on the factors affecting media policy outcomes or the process of
media policy-making. However, little research has been done on the input or interest in the formal decision-making of individuals or civil society organisations.

Following this approach, future research might outline a conceptual framework for investigating the interactions between the institutional design of media policy and the participation of non-state actors, such as the civil society or individuals, in media policy-making. Major research could address the following questions: Is there any interaction between political factors, the regulatory independence of media regulators, and policy outcome? Does more independence imply better media policy? How do the state media regulatory authorities deal with issues concerning, for instance, the freedom of expression, the right to information, hate speech, the protection of minors, and the participation of public and civil society organisations in shaping media policy? What role does the civil society play in the various contexts of changes in media regulation and governance? What institutional structures generate policies most conducive to viable civic engagement?

Looking from a different angle, and based on the evidence on the simultaneous spread of democracy and the emergence of independent central banks across Central and Eastern Europe, another line of research could address the institutional reform in post-communist countries. Previous research has shown that in the former socialist states political élites chose to create central banks with levels of formal independence that are substantially higher than those of developed democracies during the 1980s (Cukierman et al., 2002). An interesting research project could be to provide explanations for the observed coincidence of establishing independent media regulators and central banks in transition countries after the fall of communism.

7.5 Conclusion

In this chapter, I have summarised the main theoretical frameworks and findings of this dissertation concerning the cross-country variations in formal independence of National Regulatory Authorities for the audiovisual sector across Europe. I have illustrated how the current study complements the academic scholarship, and I have advanced preliminary avenues for further research.
Annex A

Questionnaire addressed to the members of the European Platform of Regulatory Authorities (EPRA) in order to gather information on rules existing concerning media coverage of politics and the role played by NRAs

1. Give us please the full official name of your authority.

2. Has your NRA any say about the way political and/or electoral information is covered by broadcasting media under your jurisdiction?

YES

NO

3. If the answer to q. 2 is ‘NO’, which other body has this powers? ____________

4. If the answer to q. 2 is ‘YES’, does your NRA monitor the presence of parties/politicians/candidates in news and current affairs programs?

YES

NO

5. Is this monitoring a permanent activity or is it only during electoral periods?

   Permanent activity

   Only during electoral periods

6. Are there rules concerning the amount of presence given to each party (or politician or candidate) or the distribution of screen presence among them?

   YES

   NO

7. Can you please summarise these rules?

   ___________________________________________________________
8.- Which authority has established these rules? (NRA, Parliament, Electoral Commission....)

9.- Are there penalties established in case of non-compliance of these rules? Which type of sanctions?

10.- Have conflicts arisen as a consequence of enforcing these rules? Can you please describe briefly? How have those conflicts been solved?
Annex B

Questionnaire respondents

Andorra
Austria
Belgium
Bulgaria
Cyprus
Czech Republic
Denmark
France
Germany
Greece
Italy
Luxembourg
Macedonia
Malta
The Netherlands
Norway
Poland
Romania
Serbia
Switzerland
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