

## Interview with Professor Iveta Radičová

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By Nikola Belakova

*It is undeniable that legislation influences journalism. It has been argued that in Central and Eastern Europe (CEE) elites were sometimes unwilling to lose all the influence of the media and journalism. Hence, they adopted legislation that would pacify the media and grant them favourable publicity. As part of the MDCEE project, we would like to learn more about the processes of legislating the media through national Parliaments. We are interested in better understanding a number of issues, for instance, the main legislative battles concerning media legislation and the related positions of political and external actors. We would also like to investigate which actors initiate the legislation process, whether national Parliaments are active in the process and what is the role of the judiciary, the European Union and other external actors. Doing so will deepen our understanding of how legislation influences the quality of the media in CEE.*

**NB: Professor Radičová, I would like to thank you for agreeing to share the insider knowledge you gained during your years in Slovak politics with us.**

**My first question concerns the Press Law that was adopted by the Government of Prime Minister Robert Fico in 2008. It triggered a wave of criticism and protests from publishers, journalists and international and domestic watch organisation. Your party at the time, which brought Slovakia to the European Union, threatened the ratification of the Lisbon Treaty in Parliament because of the bill. Could you briefly summarise the concerns you had about the law and whether they have materialised in practice?**

IR: Thank you very much for this interest. My answers are the answers of a person, on the one hand, involved in politics and, on the other, a professor of sociology. Even so, I am not value-neutral. I am value oriented. I think it is important for anybody evaluating such rights like freedom of speech and freedom of the media to very openly state at the beginning from which background and value system this evaluation stems. So my background is absolutely clear.

I would like to start not in 2008, but further in the past, because the most important part of transformation of the former communist regimes was mainly the establishment of five basic “Dahl’s” rights for democracy. Undeniably, such rights like freedom of speech and freedom of belief are the basis. The story was thus how to implement these rights, how to establish the very important sphere of monitoring democracy – not only consolidating but also monitoring democracy. And one pillar of monitoring democracy, public institutions apart, is the media. That’s why the Press Law was very important.

At the beginning of the transformation, there was a question of which country with a history and experience of monitoring democracy would be a good example for countries in transformation. And, as usual, there was no easy answer. There was no concrete model you could implement because of the economic circumstances, democratic situation, history of the country, power of the media, existence or non-existence of a dual broadcasting system in the country and many other factors. From the beginning we were thus inspired by many different press laws around Europe, but mainly by the *acquis communautaire* of the European Union.

The quarrel or fight in 2008 was in principle a fight around three points in the Press Law. The first one concerned the right of reply. It did not matter whether the information to which a claimant requested a reply was true or not. That was unacceptable. Second point concerned sanctions towards the media. And the third point concerned the fact that politicians and public opinion makers had two possibilities to react to the information in the media. They could request both a reply and a correction. And there were many other small issues.

If you read the Lisbon Treaty, there is one important part concerning guarantees of consolidated democracy together with the right for independence of the media. So the Press Law went against one part of the Lisbon Treaty. How can you have the Treaty and at the same time a very important law that goes against the principles of that Treaty? That is why we put all these issues together and why we had asked to

change the Press Law and then vote for the Lisbon Treaty in the Parliament. There was enough time to do it in this sequence.

I do not have a clear answer as to who was the main actor in the protests against the Press Act, or whether there was more pressure from the outside or inside. There is always a mixture of influences.

Personally, through my husband, I was part of the media space and have in my memory very fresh experiences from Mečiarism.<sup>1</sup> Then publishers, editors and journalists but also humourists were stopped from producing unwanted content by the Government. This is an important legacy. I am therefore very sensitive to any attempts of muzzling the media.

When you look at the period of independent Slovakia, there has always been an open fight between the Prime Minister or the Government on the one hand and the media on the other. During Mečiarism, newspapers came out with blank front pages. During the Dzurinda Government, there was an open fight between the Prime Minister and especially the news daily SME, and through solidarity of all other media. During the Fico administration, newspapers came out with blank front pages once more in protest against the Press Law. I, as a Prime Minister, did not have such a fight [laughs]. And one of the first steps we did was the amendment of the Press Law. After the amendment, Reporters without Borders' evaluation of Slovakia improved. We are now at a better position, at the 23<sup>rd</sup> place<sup>2</sup>, with more media freedom than in the UK or the US.

**NB: Thus the motivation came firstly from the value or belief system of the Government?**

IR: Absolutely. Our Government as a continuation of the Government of 1998, or precisely 2002-2006, which negotiated Slovakia's entry to the EU, fully supported the values of democracy. These values are part of the programme of the political parties that formed our Government.

**NB: If I am not mistaken, the intention to amend the law was proclaimed in the election manifestos of all the parties that later formed your Government?**

IR: It was always in the campaign materials, election materials and governmental programme of the Slovak Democratic Christian Union (SDKÚ-DS). I do not remember if it was explicitly part of the programme of other coalition parties. But there was immediate agreement at our first coalition meeting that this is one of the points we will do very quickly, especially when the Minister of Culture was a former TV journalist. He knew very well that it was inevitable to change the law.

**NB: So the agreement on the inevitability of the amendment was there straightaway. Do you remember any disagreements between the coalition parties later about the details of the amendment?**

IR: There was consensus among the coalition parties. As usual, there were some other positions. For example, there was pressure from the publishing houses to completely abolish the financial sanctions in case publishers failed to provide in each publication the information stipulated by law, and there was a small discussion concerning the information sources of journalists. This is, however, a normal part of the consultation procedure. The groups involved in the process usually try to gain as many concessions as possible rather than to find a compromise. So I understand the position of formulating extreme demands, but I think that they were satisfied with the compromise that we had found in the end. Still, it was not a discussion among the coalition, but with the publishers.

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<sup>1</sup> The period and semi-authoritarian style and practices of the Governments of Prime Minister Vladimír Mečiar, especially his third Government between 1994 and 1998.

<sup>2</sup> Compared to the 44<sup>th</sup> place in 2009.

**NB: After the consultation process with all the interested parties and other ministries, when the proposal reached the Parliament, did deputies and the relevant Parliamentary Committees take an active role and proposed many amendments? Were there any conflicts?**

IR: To be honest, there were 162 laws during one year and more than 200 different other statements of Government. So I cannot remember this procedure. It is also not the responsibility of the Prime Minister. It is the role of the Minister of Culture to discuss at Committees, and to be in the Parliament. And he was. There were certainly some proposals as usual. And this is normal. We expected that the opposition at the time – the party Smer-SD<sup>3</sup> – would totally disagree with the changes. The main fight in the Parliament was thus between the coalition and the opposition, which did not agree with the amendment.

**NB: It was very similar during the adoption process of the 2008 Press Law. It seems to me that it is normal politics in the Slovak Parliament for deputies to follow the party line. If the coalition, or the sponsor of the bill, has the backing of the governing party or parties, the opposition cannot do much about the proposals that reach the Parliament. Would you agree?**

IR: If you have majority in the Parliament, it is so. It is a normal part of liberal democracy. And I can only repeat Sartori that the Government is performing because of legislative majority. So if you are in the Government you have legislative majority and you can pass laws because you promised it to your voters. Some laws secured agreement across the Parliament. When I was the Minister of Labour, Social Affairs and Family, two laws – one on pension reform and another on care of children – were passed across the Parliament. So it depends on the issue, whether it is politically sensitive or not. It would be surprising if the former governmental party Smer-SD at that time would change their mind totally, since they were the authors of the Press Law in 2008.

**NB: In general, would you say that the Parliament is an active actor in introducing laws or only passes the legislation that is proposed by the Government and negotiated at the Coalition Council?**

IR: It depends on the Government. At present, there is a one party Government. So there is no problem at all. There is no negotiation, just agreement of one party with one party. But in a coalition Government, it always depends on negotiations and attempts to find agreement. In a coalition of six political subjects, not four – here Mr Fico was right – as in my Government, it is really not easy to find agreement. But the Press Law was not the case. There was a very clear agreement among all the parties.

But I would like to say that the Parliament is very active. Otherwise I would still be the Prime Minister. The Parliament said “No” concerning the trust and confidence of my Government because of EU issues.

**NB: But the Parliament did not initiate the vote of confidence. It was you who initiated the vote.**

IR: It was the Government, not me. I had no such right. I would like to stress this. Only the Government can decide and connect these procedures. Also without my voice in the Government there would be agreement to do so.

**NB: Was your voice in agreement or not?**

IR: Sure, my voice was in agreement. I only want to stress that also without my voice there was agreement of three coalition parties not to continue and to connect the issues.

If you look on the website of the Slovak Parliament then you will see how many laws and amendments were prepared by individual deputies. They [MPs] were really active. And not only when we were in opposition, but also when we were in power. Our coalition deputies were very active in their own proposals. Deputies are active because they have responsibility towards citizens and they want to be re-elected.

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<sup>3</sup> Led by the then former Prime Minister Robert Fico, whose Government adopted the Press Law in 2008.

**NB: It has been suggested that once a media bill reaches the Parliament, the interests of various groups, especially media owners, sometimes get into the legislation through the amendments of deputies who had successfully been lobbied. Based on your experience, would you say this occurs?**

IR: Yes, this happens. The Government also does it. If there are some open questions left after the discussions at the Parliamentary Committees, the Government often prepares the changes in the law that are then proposed by the deputies. This occurs because it is in the parliamentary procedure and because at this stage the Government has no other possibility of making changes to the bill unless there are deputies who agree to propose the amendments prepared by the Government. Deputies can also ask the Government to prepare changes in the law as result of the discussion at the Committees. So sometimes Governments prepare such changes for deputies.

Lobbies and interest groups always have discussions with different deputies and try to put their own visions and changes to the law. And if they find somebody who agrees... Thus there are such proposals during the parliamentary discussions. Sometimes those leading the parliamentary procedure have problems counting the numerous deputy proposals and avoiding contradictory proposals.

**NB: What are the factors that influence the success of deputy amendments to bills in the Parliament?**

IR: It always depends on the content of the law. If there is a law concerning taxation or financial issues like the national debt and budget deficit, there is usually a very strong but a very rational fight in the Parliament. And then you have issues that are not so exact. State budget is something very exact – it is in figures. But then you have issues like the Press Law and other democratic rights, decisions on which are based on personal experience and knowledge. These decisions are always based on politicians' value system, experience and mainly understanding of the role of the state. These are very emotional fights.

**NB: Would you then agree that Slovak media legislation has to a large extent been influenced by these emotional fights, the value judgements and experiences of each Government that proposed or adopted media legislation? Has each piece of media legislation been based on, or mostly motivated by how each Government has seen the role of the media?**

IR: I would distinguish between emotions and value systems. Value systems are OK for these kinds of decisions; and are necessary. We have divisions, not only inside societies, but logically also among political parties according to different value bases and value systems. The liberal value system and attitudes towards press laws are different from the conservative and socialist. It is really not easy to find a compromise, because these three pillars are totally different in their bases. Thus it depends who has received legitimacy to prepare press laws. Based on the election result, my Government had legitimacy to change the Press Law in accordance with the liberal democratic value system.

**NB: Looking at the history of independent Slovakia, it seems that Governments have not always pursued the interest of the public. One could argue that they pursued different interests, and introduced laws that were not proclaimed in election campaign manifestos.**

IR: I would like to stress three important things specific to Slovakia. First, from the beginning in November 1989, the media were not only watchdogs and monitors, but also actors of change. From the beginning they have had the position not only of informing about politics but they actively took part in politics. Without the media we had absolutely no chance to have the Velvet Revolution. So the media have been actors of change until the present day. This was visible during the split of the Czechoslovak state and also during Mečiarism. The media actively fought against Mečiarism, during the second Dzurinda Government they were fighters against corruption, and during the Fico Government there was such a conflict that Fico called the media "hyena dogs" and "idiots". It was an open fight because the media were really active policy actors. Secondly, another specific feature of Slovakia is that the society is divided around three main axes or dimensions: social – strong state v. self-responsibility, national, and last but not least, cultural – that

is the value systems. And third, Mečiarism was a good example of a fight between a totalitarian version of a regime and a democratic one. This was the real fight for Slovakia. And once more, the media were a real actor.

So we have had real democracy or consolidated democracy for the past 10 years. The period of the second half of the 1990s, Slovakia was labelled, and it was true, a pseudo-democracy. Certainly, from the point of view of a totalitarian regime, or autocracy, from the point of view of a pseudo-democracy there is no relation between the actual decision-making process and the interests of the public. Keeping of the power motivates political decision-making.

My point of view is the point of view of liberal democracy established during the second decade of independent Slovakia.

**NB: Even so, the way in which the new Press Law was proposed and adopted during the first Fico Government in 2008 seemed to suggest that the Government saw the right of reply as a right for the political elite to get unlimited publicity...**

IR: Fico is a populist who worked together with Mečiar and Slota in Government, with HZDS and the Slovak National Party, the governing parties during Mečiarism in the 1990s. Thus it was no surprise that this kind of politics returned. But it returned with one, "Godseidank" as we Slovaks say, important limit – we were a member state of the EU. Without this, I cannot imagine what they would do. It was a combination of nationalistic, populist and autocratic powers together. Nobody expected anything different in the Press Law than they prepared because of the value system of the coalition parties.

**NB: Can we say that, in many cases, media legislation has been motivated by the conflict between the Government and the media that actively took the role of political actors during Slovakia's democratisation?**

IR: It is always part of the fight for consolidated democracy, not pseudo-democracy or, if you wish, a tyranny of majority. And the attempt of Mečiar, Slota and Fico at the time was a clear attempt to gain control over their opponents. This was very clear. If you look at what they had put into the Press Law, it is absolutely clear that they wanted to gain control over the media who acted as a watchdog.

**NB: You mentioned that Slovakia was part of the EU so they could not get as far as they perhaps wished. During the adoption of the Press Law, there was considerable pressure from international actors as well as from the opposition and publishers. Yet, the Government made only some small concessions. What explains that the external pressure did not work?**

IR: There were several very critical statements about the Press Law from the EU Commission. But the possibility of EU institutions to change something at the level of national states, which is in absolute competence of national states, is weak. There is no way for the EU to pressure the Government. Hungary is a very good example. Monitoring democracy is very important. And what the Commission and other international institutions did at that time was monitoring and providing a very strong feedback. I am sure that it was a question of time that the Government would silently change the law. But this would not happen immediately because it is very complicated to interpret it to the citizens. After claiming that this is the best thing, it is very complicated to say: "Sorry, this was a mistake."

**NB: Do you think that the amendment of the deputy Madej, which eventually allowed the media to reject most of the requests for reply and correction, was proposed as a result of international pressure?**

IR: I am absolutely sure about that.

**NB: Still, the international pressure was not as strong as, for example, towards Hungary. Why?**

IR: Our law was not so terrible [laughs]. It was not good, but you really cannot compare it to the law in Hungary. That was something unbelievable.

**NB: Perhaps the pressure of the EU Commission was not that strong because of the rejections of your party to ratify the Lisbon Treaty?**

IR: Yes, the Lisbon Treaty was very important. For our colleagues in the EPP, the position of SDKÚ-DS to link the Press Law to the Lisbon Treaty was not understandable. The priority for them was the Lisbon Treaty. Their stance was: "Please, solve this problem at home later, but do not connect it, and now show a clear position towards the Treaty." It was thus interconnected.

Everything you do in politics has its effects, if not immediately then later. When in the last year there were decisions on the European Financial Mechanism, the first reaction of Mr Fico was: "You didn't agree with Lisbon [Treaty], so why do I have to support you in this procedure? I will do the same as you did." In politics, you will always receive the bill in the end.

**NB: Going back to the legislative process and the amendment of the Press Law under your Government, after it was passed in Parliament in May 2011, the President refused to sign it. How did you view his position?**

IR: There is the institution of President in the Slovak political system. It is, however, represented by a man who was the co-author of pseudo-democracy in Slovakia. He was the head of the Parliament at the time when all the legislation against democracy was passed in the Parliament. He is responsible for this period. So I never expected anything else from him. His position is a linear position of a person who was, I repeat, the co-author of pseudo-democracy in Slovakia. So I was not surprised by his position towards the legislation.

**NB: It seems that the decision and actions of Slovak Presidents have often been based on their party line. Do you think it is so?**

IR: With the exception of our first President it was so. After his speech in the Parliament there was an open fight between Mečiar and President Kováč. I think that President Kováč played a very important role in the change in 1998.

**NB: In several interviews, you mentioned that Slovakia is an oligarchic democracy. Can you elaborate on that?**

IR: A so-called "oligarchic democracy" is not only a specific feature of Slovakia. In all countries with widespread privatisation, an "oligarchy" was created in the society, in the sense of interconnections between new owners of property and politicians. This "oligarchic democracy" produced a visible part of power – the Government and the Parliament, and an invisible part of power – the "economic oligarchy". This is part of democratisation of former totalitarian communist regimes.

Such widespread privatisation, however, cannot be fully based on justice. You have to add the specific situation in Slovakia, where Mečiar made privatisation a process without any competition. Instead, it was based on direct political decisions about which actors and persons will become the new owners. Mečiar would sometimes give state property for zero or one Slovak crown to already chosen new owners. Because the banks were owned by the state, it was he who decided who will receive loans to buy state property. This then meant a creation of a totally new, non-transparent, social, economic and political network.

**NB: So the process of creating "oligarchic democracy" is similar to what Timothy Garton Ash called "nomenklatura privatisation"?**

IR: Yes and no, only a part of the new owners were members of the Communist party or held high position in the communist state. The *nomeklatura* is one part of this oligarchy. Another part of the new oligarchy came from a new generation. One new owner, for instance, was a pop music singer. Thus it really meant a creation of a new establishment and power, invisible but very strong power in society based on networks and concrete political decisions.

**NB: To what extent does this influence media legislation?**

IR: Look at the media. In Slovakia, J&T Group<sup>4</sup> is the owner of several media outlets. Then there are international companies. Then there is something absolutely unclear – this Czech owner of the daily Pravda, nobody knows who it is and what kind of capital is behind. And then there are some Slovaks who are owners of the media or a combination of Slovak and foreign investment. What, I think, is specific for Slovak media is a very high concentration of ownership with the exception of the Internet. Television, radio and the press feature a very high concentration of ownership. This is similar to the Czech Republic. But if you look at the Netherlands, for example, it is much lower than in the countries in transition.

**NB: Do you think that media owners influence media legislation and, if so, how?**

IR: I have no knowledge or experience concerning this influence. Nobody from the owners talked to me about this issue or asked me to do anything; never. And I know some of them personally. Never have they spoken to me or tried to postpone some [legal] solution or something like that. And they have had opportunities, as I have known some of them for twenty, thirty, maybe more years.

**NB: There have been many changes in legislation, some of them contradictory, especially in the broadcasting sector. How would you explain the high volatility and sometimes inconsistency of media legislation?**

IR: This is more of a question for an expert. It is a very complicated issue. Broadcasting legislation concerns paying for broadcasting licences – to whom and for how many years, ownership of and payment for transmitters, the right to distribute the licences etc. In addition, there are the interests concerning telecommunications, the interests of the different operators in the country. So there is a fight among different interest groups. It is a fight among concrete broadcasters.

**NB: The high volatility and inconsistency also applies to the public service media legislation. Is this not less about media owners than about the Government?**

IR: Yes, you are right. It is about the position, the political control and financing of the public media. I am sure that stipulating a percentage of state budget's expenditure in the law is the best solution for financing public media. I repeat expenditures of state budget. First of all, each year they would have higher income. Secondly, there would be no quarrelling and negotiation because it would be a percentage set by the law. Thirdly, there would be no negotiations about additional finances based on the so-called state agreement with the public media. The public media become dependent when they need to get additional financial sources from the Government and have to constantly agree on new contracts with the Government. This is because these contracts are often based on concrete issues and topics the public media have to cover.

If we want to have public service media, we have to finance them. The only question is how to do it so there is no dependency on the changing Governments. And I think that a percentage of the expenditure of the state budget each year set by law is the best solution. This could even be a constitutional law, since this would mean agreement across parties.

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<sup>4</sup> A Slovak investment group successfully involved in many state procurement and privatisation projects with alleged links to Government officials.

**NB: How do you think we can explain that each Government has had different solutions for the same problem?**

IR: It depends on different factors. Allocating certain percentage of state expenditure for public media financing is an additional cost for the Government, because at present, public service media are financed by the citizens. You thus have to find the money in the state budget. And this is not a small amount. It is not an easy decision, especially if the country is in debt and the state budget in deficit. It is easier if they are financed by the citizens, but not entirely from the state budget. Secondly, there is always artificial thinking that if the public media are financed from taxation and state budget they are under more control of the state than if they were financed by the citizens. I totally disagree. Even if the payment comes from the citizens, it is paid to a state institution. The state can postpone the money and needs to have all the payments from the citizens. If the citizens do not pay the licence fee, the state has to provide additional finances. Third, there is always the fear that the percentage of state budget expenditure may be lower than the sum we have at present to finance public broadcasters.

**NB: I also had in mind the many changes of selecting the director or the Board of Slovak Television and Slovak Radio. These changes have sometimes been very contradictory and it seems that they have sometimes initiated to get bigger control over the output of the public media.**

IR: We can also think about a totally opposite motivation – not to have impact. Politicians think not only in the short term, but also in the long term. They think: “I am in the Government now, but after two-three years I may be in the opposition. And if I leave such a law in the legal system in the opposition I will lose everything.” So the motivation can be totally opposite – to create a law so that those who are in power have no influence over the public media in order to have better chances when you are not in power. It is a logical and normal way of thinking.

But still there is a chance to change the manager of public television. If you look at the situation in Slovak Television, only one director left the television without debt – Mr Rybníček. All the others left larger and larger debts and lower and lower influence on the public. At present, Slovak Television has 17% market share. That is nothing and it is so expensive. Thus something is wrong not only because of the finances, but because of the content, the programmes and the performance. More expensive does not mean more viewers. So if you ask me if there is interest to have control over the media that have no influence at all... for what?

**NB: We heard from many interviewees that in CEE implementation is sometimes much more important than the legislation itself. We are especially interested in the role of the judiciary. For example, the German Constitutional Court has played a very important role in interpreting media and freedom of speech legislation. How do you see the role of the judiciary in Slovakia when it comes to media legislation?**

IR: The first thing that comes to my mind is that the head of the Supreme Court uses the justice system and the Court against the media. I don't know what this has to do with helping to implement the laws. He is helping himself. I have no evidence of a positive role of the judicial system in Slovakia. And I have no knowledge if there was some kind of a statement of the Constitutional Court.

**NB: It has been suggested that, in order to influence the media, Governments in CEE sometimes adopt legal provisions that are not strictly part of media legislation. For instance, in Hungary, family law has a clause about the media. Do you know about any examples from Slovakia?**

IR: No, I do not know about any such examples. I think this is not the case in Slovakia. It concerns the procedure of so called indirect amendments. No political party likes to see such procedure in relation to any legislation. It should be used only in situations when there is a big time pressure. It has been used, but it is very unusual.



**NB: Thank you very much. I have no further questions.**

IR: My pleasure.

**Professor Iveta Radičová** has been a Vice-Chairwoman of the Slovak Christian Democratic Union – Democratic Party (Slovenská demokratická a kresťanská únia – Demokratická Strana, SDKÚ-DS) responsible for social affairs and healthcare, since 2006.

In 2005-2006 she served as Slovakia's Minister of Labour, Social Affairs and Family. In 2006–2009 she was deputy at Slovak National Parliament. From 2010–2012 she served as Slovakia's Prime Minister and also as Minister of Defence (2012)

She ran for the office of Slovak President in popular elections on 21 March 2009 as the common presidential candidate of all three opposition parties in the Slovak Parliament (Slovak Democratic and Christian Union - Democratic Party, The Party of Hungarian Coalition and the Christian Democratic Movement, all members of EPP).

Prof. Radičová has devoted most of her professional career to social and family policies. She received her master's degree in sociology from Comenius University in Bratislava and her PhD. from the Slovak Academy of Sciences, where in 1979 – 1989 she coordinated the family policy research team. In 1992, she founded the non-profit Social Policy Analysis Centre, which she headed until being appointed Director of the Slovak Academy of Science's Institute of Sociology in 2005.

Prof. Radičová has published and edited numerous books and studies mapping the transformation of the social-system in Slovakia and other post-socialist countries. She has taught as a visiting professor at universities in Austria, Belgium, Czech Republic, Finland, Sweden, UK and US. As an expert, she has advised various government bodies on social and family policies, participated in the approximation of European legislation in the area of employment and social affairs before Slovakia's accession to the EU and also carried out studies for the World Bank on poverty. She continues to act as an expert in European projects focusing on the coordination of social security systems and exchanging information about Member State's social policies (MISSOC, TRESS).