



Council of Europe Project
Promoting freedom of expression and information and freedom of the media in South-East Europe
Voluntary Contribution of Norway

Regional Conference: “Indicators for Independence of Media Regulatory Bodies”

Conclusions

6-7 March 2014 / Hotel Tirana International, Tirana, Albania

Opening remarks: *Vangjel Dule, Deputy Speaker, Assembly of Albania; Milena Harito, Minister, Ministry of Innovation and Public Administration, Albania; Marco Leidekker, Head of Council of Europe Office in Tirana; Lejla Dervišagić, Programme Manager, Media Division, Directorate General of Human Rights and Rule of Law, Council of Europe, Strasbourg.*

Key note speakers: Dr. Kristina Irion, Central European University (Budapest) and University of Amsterdam; Dr. Snežana Trpevska, School of Journalism and Public Relations, Skopje, Macedonia

Dr. Zrinjka Peruško, Professor at the Department of Journalism, Faculty of Political Science, University of Zagreb, Croatia.

The participants underlined that the role of Council of Europe in the field of media in the region is crucial in setting the standards and in assisting the implementation process, based on the European Convention of Human Rights, and the body of policy documents adopted throughout the years.

It was recalled the Council of Europe of Ministers, Recommendation to Member States on the independence and functions of regulatory authorities for the broadcasting sector (Rec (2000)23), which was later followed by a declaration in 2008.

There was a shared understanding that the harmonization process of the legislation framework with the *Acquis Communautaire* should continue and that countries should give the same importance to improving the implementation culture.

The importance of the concept of public interest being the driving vehicle, be it for the legislators in policymaking or for the work of the regulators, was strongly underlined. It was reiterated that the goal of governments, parliaments, and civil society should remain to establish and strengthen independent and efficient regulators.

It was agreed that often the formal level of independence (legal set-up) and *de facto* independence (actual situation) do not concur.

The participants agreed that in order to measure the achieved level of independence of regulatory bodies and their responsibility, we should take into account, the following indicators:

1. Status and powers:

Existence and implementation of the legal framework which clearly and unequivocally defines the position, competences, rights and duties of a regulatory body. Particular attention should be devoted to:

- Possibility of autonomous decision making concerning the implementation of the competences prescribed by law (adopting by-laws, pronouncing sanctions in the case of any violation of standards...)
- Clear rules, criteria and conditions for proposing, appointing and releasing from duty council members and the executive director of an independent regulatory body
- Rules for preventing conflict of interest concerning different sources of political and economic influence

2. Financial autonomy

Existence and implementation of the legal framework stipulating sustainable and stable sources of financing of a regulatory body, enabling it to plan, manage and dispose of funds in an efficient, transparent and responsible manner, in order to mobilise and keep human and technical resources required for successful implementation of its competences and tasks;

3. Autonomy of decision-makers

Existence and implementation of clear-cut rules and good practice, meaning that a regulatory body is able to adopt its decisions autonomously, and to make its decisions and their rationales available to the public (e.g. legal or statutory provisions on the obligation to publish general and individual acts in the purview of the regulatory body), and to organise public consultations before adopting by-laws important for regulating the rights and duties of those extending AVM services, so as to enable all stakeholders to give their opinions and suggestions.

4. Knowledge/ skills

Existence and implementation of clear-cut rules, rights and duties related to the possibility of planning, hiring and developing human resources important for efficient and successful execution of competences in the purview of an independent regulatory body.

5. Transparency and accountability

Existence and implementation of clear-cut rules, rights and duties relating to adopting and publishing financial and operational plans and reports of independent regulatory bodies.

The participants also agreed that it would be wise for each country in the region to receive an independent analysis (not conducted by the parliament, the regulator or anyone else,

but by an independent entity, association, NGO, experts), with the support of the Council of Europe.

The participants in the conference recognised the necessity to:

- Organise extensive public discussions and consider the opinions and suggestions of relevant stakeholders
- Consider the possible effect of the proposed amendment concerning *de iure* and *de facto* independence of regulatory bodies in the process of reviewing the need for or decision on altering the legal framework.

In the end the following concrete steps were proposed:

- In the context of the EPRA meeting in Budva, 4-6 June 2013, and of the proposal adopted earlier to organise a one-day gathering preceding the EPRA meeting, it was proposed that the topic of the gathering of regulatory bodies' representatives be **"Defining specific indicators for establishing and monitoring the transparency, responsibility and operational efficiency of these bodies, as parameters which should be taken into account in the process of analysing their work and independence."**
- By adopting and applying these indicators, regulators should contribute to developing and strengthening the culture of regulation and the culture of regulators' independence.
- The indicators should enable the **monitoring of the development of regulatory bodies' capacity** to recognise and take into account the interests of different social factors; the indicators should also enable the supervisory and managing authorities of regulatory bodies, as well as their employees to recognise and oppose the attempts of different political and economic factors to meddle in their affairs or jeopardise their independence in any unacceptable manner.