

November 25, 2014

New Report on assessment of AMA independence

Responding to a request by the Speaker of the Assembly of Albania, the Council of Europe Secretary General has requested assistance for an assessment of the independence and efficient functioning of the Albanian Audiovisual Media Authority (AMA) using the INDIREG methodology, developed in 2010. The final report was discussed during a public workshop held today, with the participation of Members of Parliament, representatives from relevant ministries, the regulator, the public broadcaster, civil society, academicians, media, and representatives from international bodies.

The objective of the study is to apply the formal and de facto ranking tools to AMA, based on the country tables and information gathered from stakeholders and other interested parties during September and October. According to the assessment, the formal situation with AMA appears better than the de facto situation, with the exception of the area of knowledge, where the opposite is true. The assessment concluded that AMA faces two sets of challenges. The first one is related to establishing its credibility and independence from politics and the media, against a backdrop of politicized appointments. The second challenge stems from the overall Albanian context, with a weak culture of legal compliance and a high risk of external influence. In this context, AMA and KKRT have had a difficult time establishing themselves as impartial and independent regulatory body.

With this in mind, the report drafted specific policy recommendations, addressed to the parliament or to AMA, covering the five areas analyzed by the ranking tool. Some of the main recommendations to the parliament included:

- amending the law in order to grant organizational autonomy to AMA, not dependent on other bodies' approval;
- considering transferring part of AMA competencies related to spectrum to AKEP;
- transferring the competency to fight piracy to administrative courts;
- establish a merit-based nomination rather than one of political support;
- encourage consensual nominations, rather than politically supported ones;
- appoint a Secretary General and consider if he/she can be part of the board, etc.

In turn, some of the recommendations made to AMA included:

- Increase transparency by online publications of all decisions, including motivations for these decisions;

- Appoint a Secretary General with high professional integrity and experience;
- Council of Complaints should become operative as soon as possible;
- Greater transparency on publishing income from taxes and fees levied by the industry;
- AMA should take organizational measures to monitor, raise awareness, report, and follow up on threats;
- Staff with higher technical expertise should increase;
- AMA should do more to demonstrate the staff is hired on grounds of competency;
- Transparency on consultations, plans, market data, board meetings, fees, and all AMA documents should increase by online publication of these documents.

The key stakeholders discussed the findings and the recommendations of the report. Genc Pollo, chair of the Parliamentary Commission on Media, from the opposition party, said that this was a realistic study of the AMA situation and challenges. He pointed out that the existing law is a good one, even though it took seven years to pass such a law. He also recognized the limitation it has in the appointment procedure, but he said in a way this was the reflection of the political landscape in the country and it was the only model that both sides could agree to adopt. In this respect, he stressed that the recent developments have showed that the law was drafted in consensus, but it was not being implemented in consensus, referring mainly to the dismissal and election procedures for AMA members. On the other hand, Alfred Peza, deputy head of the same commission, from the ruling majority, said he appreciated the findings and agreed with the recommendations. He underlined the importance of having an efficient and well-functioning regulator, especially in this key moment, when digital switchover deadline is approaching and preparations are lagging behind. He expressed the political will and commitment of the ruling majority to do its best to improve the role and credibility of AMA and called on the opposition to refrain from using legal procedures to do political favors or even block the process required for normal functioning of AMA.

Gentian Salaj, newly appointed chair of AMA, also provided his comments on some of the recommendations. He said that while agreeing with the need for greater organizational autonomy of AMA, he did not agree with the proposal on AMA's new structure pending on the parliament, calling for more efficient current staff rather than expansion of the staff members. He also agreed with the recommendations to revise AMA competencies regarding spectrum regulation and piracy, as well as the need for AMA to significantly improve its transparency. He stressed that establishing a functional Council of Complaints is a priority and the work for this will start next week, with the first meeting of the newly appointed board. He also said that while it is true AMA funds are insufficient, any increase in such funds should be matched with higher efforts of transparency and accountability, while efforts to collect fees and taxes should be stepped up.

Sami Neza, old member of AMA, underlined the importance of the nomination and election process, as it directly affects integrity of AMA members. He opposed the recommendation of considering possibility for Secretary General to sit on the board, as it would create appointment on two levels, by both the parliament and the law on civil administration, and lead to undue influence on the board decisions. The current practice is that AMA directors of departments participate in the meetings and provide input on decisions, and it is not necessary to make such a practice a legal procedure.

Finally, one of the representatives of commercial TV station, Vizion Plus, highlighted that with the new law AMA has powerful competencies and has to draft a significant number of bylaws and regulations. At the same time, AMA staff lacks capacities to monitor the implementation of the law on the ground. AMA also has been unable to guarantee fair competition between operators, in his view, while the process of digital licensing has cast significant doubts on its independence and ability to act free of influence. In sum, he expressed the doubts of media outlets in general for AMA being truly capable of implementing the law to the letter, sharing concerns for the future, too.

This document has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of the Albanian Media Institute and can under no circumstances be regarded as reflecting the position of the European Union.