



OPEN SOCIETY INSTITUTE  
EU MONITORING AND ADVOCACY PROGRAM

NETWORK MEDIA PROGRAM

# Television across Europe:

## Follow-up Reports 2008

ALBANIA

*Published by*

OPEN SOCIETY INSTITUTE

Október 6. u. 12.  
H-1051 Budapest  
Hungary

400 West 59th Street  
New York, NY 10019  
USA

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*Design & Layout by Q.E.D. Publishing*

## Acknowledgements

This country report was prepared as part of a series of monitoring reports titled “Television across Europe: Follow-up Reports 2008”. The series presents an update of the situation in nine of the original twenty countries covered in the 2005 reports series “Television across Europe: regulation, policy and independence”. The countries included in the 2008 series are: Albania, Bulgaria, Czech Republic, Italy, Lithuania, Macedonia, Poland, Romania and Slovakia.

Both series of reports have been prepared by the EU Monitoring and Advocacy Program (EUMAP) of the Open Society Institute and by the Network Media Program (NMP) of the Open Society Foundation, in cooperation with local experts. EUMAP and NMP would like to acknowledge the primary role of the following individuals in researching and drafting this country report.

Final responsibility for the content of the reports rests with the Programs.

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## Preface

*Television across Europe: Follow-up Reports 2008* is a monitoring project of EUMAP (EU Monitoring and Advocacy Program) at the Open Society Institute and of the Network Media Program at the Open Society Foundation. The project updates and builds on the outcome of the original *Television across Europe: regulation, policy and independence* monitoring reports released in October 2005, which covered 20 countries.

The 2005 reports concluded that the pivotal role of television in supporting democracy in Europe was under threat. It showed that public service broadcasters were being forced to compromise quality to compete with commercial channels, and that many of them depended on Governments or political parties. Moreover, ever-larger concentrations were developing in the commercial sector, often with clear political affiliations. These developments jeopardised broadcasting pluralism and diversity, with the new democracies of Central and Eastern Europe most acutely at risk.

The original *Television across Europe* project and its linked advocacy activities ended in June 2006. Since then, the Network Media Program has funded a number of follow-up projects, carried out by partner organisations in selected countries, aimed at promoting and building on the reports' findings and conclusions.

There have been significant developments in many of the countries covered in the 2005 reports, with respect to many of the areas monitored. Launched in London in March 2008, *Television across Europe: Follow-up Reports 2008* monitors these developments in nine of the twenty countries that were originally monitored: Albania; Bulgaria; the Czech Republic; Italy; Lithuania; Poland; the Republic of Macedonia; Romania and Slovakia. These countries were selected because of the continuing significant changes in their broadcasting landscape.

*Television across Europe: Follow-up Reports 2008* maps the main changes in broadcasting legislation, policy and market over the past three years and assesses the progress – or lack of – that these countries have made in improving the independence and pluralism of their broadcasting.

As with the original 2005 reports, these updates are addressed to policy makers, civil society activists and academics alike, as a contribution to bringing about change where it is needed.

The nine country reports were drafted by local experts with the support of partner NGOs. All country reports are based on the same methodology, thus allowing for a comparative analysis. OSI and OSF assume final responsibility for their content.

## **About EUMAP**

EUMAP, the EU Monitoring and Advocacy Program of the Open Society Institute, monitors the development of selected human rights and rule of law issues in both the European Union and in its candidate and potential candidate countries.

EUMAP works with national experts and nongovernmental organizations (NGOs) to compile reports that are distributed widely throughout Europe and internationally. The reports are designed to encourage broader participation in the process of articulating the EU's common democratic values as well as in ongoing monitoring of compliance with human rights standards throughout the Union.

In addition to these monitoring reports on Television across Europe, EUMAP is currently focusing on access to Education for Roma and on the situation of Muslims in selected EU Cities.

Previous EUMAP reports include the 2005 Television across Europe series as well as reports on minority protection, the rights of people with intellectual disabilities, judicial independence, judicial capacity, corruption and anticorruption policy and equal opportunities for women and men.

All EUMAP reports as well as further information on the program are available at [www.eumap.org](http://www.eumap.org).

## **About NMP**

The Network Media Program seeks to promote independent, professional, and viable media and quality journalism, primarily in countries undergoing a process of democratization and building functioning media markets.

The Media Program supports initiatives aimed at helping media-related legislation conform to international democratic standards, increasing professionalism of journalists and media managers, strengthening associations of media professionals, and establishing mechanisms of media self-regulation. The Media Program also supports media outlets that stand for the values of open society, as well as efforts aimed at monitoring and countering infringements on press freedom, and promoting changes in media policy that ensure pluralism in media ownership and diversity of opinion in media.

Although traditionally the Media Program has focused on Central, Eastern, and South Eastern Europe, CIS, and Mongolia, during the past several years it has expanded to Western and Southern Africa, Southeast Asia, and Latin America.

Television across Europe:  
Follow-up Reports 2008

Albania

By Ilda Londo

## Table of Contents

|   |    |
|---|----|
| A. Executive Summary .....  | 10 |
| B. Recommendations .....  | 11 |
| 1. Original recommendations from the 2005 report .....                                | 11 |
| 1.1 Policy .....  | 12 |
| 1.2 The regulatory authorities (KKRT) .....   | 14 |
| 1.3 Public and private broadcasters .....   | 15 |
| 1.4 The public broadcaster (RTSH) .....   | 17 |
| 1.5 Civil society .....   | 18 |
| 2. New recommendation based on the 2008 report .....                                  | 18 |
| 2.1 Legislation .....   | 18 |
| C. Main Findings of the Follow-up Monitoring .....                                    | 19 |
| 1. General broadcasting environment .....   | 19 |
| 1.1 Key developments in legislation and policy .....                                  | 19 |
| 1.2 EU legal provisions .....   | 19 |
| 1.3 Broadcasting market .....   | 21 |
| 2. Regulation and licensing of the television sector .....                            | 21 |
| 2.1 Regulatory authorities and framework .....  | 21 |
| 2.2 Licensing system .....  | 24 |
| 3. Regulation and management of public service<br>television broadcasting (PSB) ..... | 29 |
| 3.1 PSB legislation and policy .....  | 29 |
| 3.2 PSB governance structure .....  | 29 |
| 3.3 PSB funding .....   | 33 |
| 3.4 Editorial standards .....   | 34 |
| 4. Commercial broadcasting .....  | 35 |
| 4.1 Regulation and management .....   | 35 |
| 4.2 Ownership and cross-ownership .....   | 36 |
| 4.3 The advertising market .....  | 36 |
| 4.4 Editorial standards and independence .....  | 39 |
| 4.5 Regional and local broadcasting .....   | 41 |
| 5. Programming .....  | 41 |



|   |    |
|---|----|
| 5.1 Output .....                                  | 41 |
| 5.2 General provisions on news .....              | 43 |
| 5.3 General programme production guidelines ..... | 44 |
| 5.4 Quotas .....                                  | 44 |
| 5.5 Obligations on PSB .....                      | 45 |
| 5.6 Obligations on commercial broadcasters .....  | 46 |
| 6. Conclusions .....                              | 46 |
| ANNEX 1. Legislation cited in this report .....   | 48 |
| ANNEX 2. Bibliography .....                       | 49 |

## List of Abbreviations

|        |  |
|--------|--|
| EBU    | European Broadcasting Union  |
| KESH   | Albanian Power Corporation, <i>Korporata Elektroenergjitike Shqiptare</i>                |
| KKRT   | National Council of Radio Television, <i>Këshilli Kombëtar i Radios dhe Televizionit</i> |
| KLSH   | Supreme State Audit, <i>Kontrolli i Lartë i Shtetit</i>                                  |
| OSCE   | Organisation for Security and Co-operation in Europe                                     |
| RRC-06 | Geneva Regional Radio-communications Conference in 2006                                  |
| RT     | Radio Tirana   |
| RTSH   | Radio-Television of Albania, <i>Radio Televizioni Shqiptar</i>                           |
| TVSH   | Albanian Television, <i>Televizioni Shqiptar</i>   |
| WAZ    | Westdeutsche Allgemeine Zeitung  |

## A. Executive Summary

The electronic media form the most important sector in the Albanian media market. Despite their continuing professional development, electronic media are still subject to suspicions about the sources of their funding and their economic performance. They continue to be economically unstable and depend largely on revenue from their owners' other interests. This situation casts serious doubt over their editorial independence and the quality of the information they offer to the public. The Government has tried to solve the controversial issue of the allocation of State advertising, but it has not yet made a clear break with past practices. The Government decided to place State advertising only in the official bulletin to relieve the media from its dependence on the Government. But the law does not clearly define State advertising, leaving room for arbitrary patronage.

The Government has also initiated several controversial legal amendments concerning regulators and digital broadcasting. They claimed that these efforts were aimed at improving the independence of the media, but critics alleged that the real motive was to gain more control over the regulators and to silence independent media. The lack of public debate and consultation with stakeholders during the preparation of legal changes made suspicions even stronger.

Despite undergoing substantial reform, the National Council of Radio Television (KKRT, *Këshilli Kombëtar i Radio dhe Televizionit*) has failed to make progress in fulfilling its mission. Its decisions on granting broadcast licences and removing antennas have been contested. The granting of digital licences in the near future will be the ultimate test of the KKRT's authority and independence. Digital television has made significant progress since its emergence, in a legal vacuum, three years ago. Its popularity is on the rise.

Proper implementation of the law is especially needed for strengthening the role of the public service broadcaster, the Radio-Television of Albania (RTSH, *Radio Televizioni Shqiptar*), and enabling it to fulfil its mission. The role of the public service broadcaster has steadily faded, as private television stations have been continuously investing in their operations. The reform of RTSH has stagnated; accusations that it favours the Government have continued. The current management has finally drafted a strategy to transform the institution into an efficient public service broadcaster. However, funding is still a conundrum that must find a solution, especially as digitalisation looms.

An efficient self-regulation system has not yet taken root despite some attempts in that direction. Given the lack of employment contracts for journalists and the extremely unstable labour market, self-censorship rather than self-regulation is the norm among journalists. Moreover, the lack of reliable research, monitoring, surveys and other ways of collecting solid data on electronic media continues to prevent better analysis of the Albanian media market.

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## B. Recommendations

### 1. ORIGINAL RECOMMENDATIONS FROM THE 2005 REPORT<sup>1</sup>

Many of the recommendations from the original report have been fulfilled, mostly in the area of legislation and distribution of State advertisements and funds. International organisations have continued their support in research, monitoring and assistance on legislation. Although the public service broadcaster has embarked on a serious reform, it is too early to assess how the recommendations on public service broadcasters are fulfilled. There was no progress made in making the ownership of broadcasters more transparent and in enforcing the Labour Code in the media sector.

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<sup>1</sup> “Albania” in Open Society Institute, *Television across Europe: regulation, policy and independence*, Budapest, 2005 (hereafter OSI/Albania), pp. 247–250.

## 1.1 Policy

|  |   |
|--|---|
| <i>Legislation</i>   |   |
| <p>1. The Government should take steps to fill the gaps in media legislation, especially those relating to new broadcasting technologies and services, with reference to international instruments on digital broadcasting and competition.</p> <p>2. International and intergovernmental organisations should continue assistance to the Government and Parliament, and to the regulator – the National Council of Radio and Television (KKRT) – for the drafting of media legislation. They should urge consultation with Albanian media freedom NGOs, and associations of media professionals, as part of the drafting process.</p> <p>3. International and intergovernmental organisations should continue giving their assistance to law enforcement agencies on improving the implementation of media legislation.</p> | <p>These recommendations have been adopted. The Law on Radio and Television was amended to accommodate digitalisation and is now continuously revisited to keep it in line with EU legislation. International organisations were prompt in supporting the reform of the regulatory authorities and the public service broadcaster, and in advising on legislation. This assistance should continue.</p> |
| <i>Public debate</i>   |   |
| <p>4. Local NGOs working on freedom of expression and access to information, as well as organisations dealing with civil rights more widely, should generate a public debate on important issues related to media development in an informed and impartial spirit, raising awareness of how the media affect citizens. Such an initiative should be strongly supported by international and European institutions, such as the European Union, the OSCE and the Council of Europe.</p>   | <p>The media themselves have brought media-related issues to the heart of public debate. But there is still a need for richer public debate on important issues related to media development. Local NGOs are best placed to bring this about.</p>   |

|  |   |
|--|---|
| <i>Research</i>  |   |
| <p>5. The Government should encourage the in-depth analysis of the media sector, with particular attention to audience research. To guarantee the independence of such research, the Government might function solely as (co-)financer of work conducted by academic institutions, local or foreign NGOs or other non-State establishments.</p> <p>6. Civil society organisations should urge the Government to support such independent research in the media sector.</p> | <p>This recommendation has not been fulfilled. There is still no audience research being done, so the recommendation remains.</p>   |
| <i>Consultation</i>  |   |
| <p>7. The Government should consult the media owners, media freedom NGOs, associations of media professionals, and the international community – especially the Council of Europe – when taking steps that affect the media, and take their responses into account.</p>  | <p>This recommendation has more or less been fulfilled. The Government consulted with the main stakeholders when taking steps affecting the media. Unfortunately, this debate and consultation with stakeholders took place after repeated calls from various interest groups.</p>                            |
| <i>New technologies</i>  |   |
| <p>8. The Government should prepare a long-term strategy for media development that would anticipate the evolution of new technologies, including digital broadcasting and the Internet.</p> <p>9. The Government should, as a priority, propose to Parliament amendments to the Law on Radio and Television aimed at regulating digital broadcasting, in conformity with international and European standards.</p>  | <p>The first recommendation has yet to be fulfilled. The KKRT is drafting a strategy for digitalisation.</p> <p>The second recommendation has been fulfilled. Parliament amended the Law on Radio and Television to accommodate provisions on digital broadcasting, in line with international standards.</p> |

## 1.2 The regulatory authorities (KKRT)

| <i>Independence</i>  |   |
|--|---|
| 10. The Government and Parliament should ensure the full implementation of existing legislation, in order to respect and reinforce the independence of the regulatory authority, the KKRT, in particular with respect to the nomination of KKRT members and the preparation of the KKRT's annual report. | The recommendation has been addressed. Although it stirred much controversy, the formula of nominating the KKRT's members was changed. Despite sustained reform over the past years, the Government and Parliament should still adopt changes in legislation to buttress the independence of the regulator. |

### 1.3 Public and private broadcasters

|   |   |
|---|---|
| <i>Media diversity</i>  |   |
| 11. The Government and Parliament should enforce media transparency through the full implementation of media legislation, and by regular reviews of media ownership and funding.  | There has not been much progress in shedding light on the ownership of broadcasters. The Government and Parliament should do more to achieve this. Reviews of media ownership and funding should be carried out by stronger, more efficient and independent enforcement agencies, such as the KKRT or the Tax Police.   |
| <i>Journalists' rights</i>  |   |
| 12. The Government should take specific steps to enforce the Labour Code in media organisations and regularly monitor its implementation.<br>13. Journalists' associations, with the assistance of other civil society actors, should demand the enforcement of the Labour Code in media companies, and eventually collective bargaining.<br>14. Civil society organisations should support individual journalists whose rights are violated by media owners, State authorities or other parties. | These recommendations have not been fulfilled. The Government has not taken steps to enforce implementation of the Labour Code. (These steps would include enhancing the capacity of law enforcement agencies such as the Supreme Inspectorate of Labour, and the Tax Police to regularly monitor the implementation of the Labour Code in all media outlets.)<br>At the same time, civil society and journalists' associations have been slow in demanding the enforcement of the Code in media organisations. |
| <i>Funding</i>  |   |
| 15. The Government should establish an independent body to be responsible for the allocation of all Government subsidies to media outlets, in accordance with the principles and procedures set forth in the relevant recommendations of the Council of Europe. This allocation process should be clear and transparent.  | This recommendation has been fulfilled. The Government has set up the Agency of Public Procurements that publishes a weekly bulletin of official notifications, including state advertisements and notifications previously published in newspapers. However, the law is not entirely clear in defining State advertisements and therefore needs further clarification.   |
| <i>State advertising</i>  |   |
| 16. The Government should take immediate steps to ensure the unbiased and apolitical allocation of State advertising and to increase the transparency of the allocation of such advertising.  | The Government has taken steps to ensure an objective distribution of State advertising distribution. However, the system of State advertising distribution still needs improvement.  |

|   |  |
|---|--|
| <i>Independence</i>   |  |
| 17. The Government should regularly investigate allegations of violations of media freedom and independence.  | The Government has not shown much willingness to investigate violations of media freedom on a regular basis. Hence this recommendation remains pertinent.              |
| <i>Research and monitoring</i>  |  |
| 18. International and intergovernmental organisations should monitor and report publicly on violations of media independence.<br>19. International and intergovernmental organisations should assist with research and monitoring of particular areas of media activity, such as its independence, law enforcement, and media ethics. | International and intergovernmental organisations have continued to fulfil their monitoring role. Their monitoring and research work is essential and should continue. |



## 1.4 The public broadcaster (RTSH)

|  |   |
|--|---|
| <i>Reform of RTSH</i>  |   |
| <p>20. The Government should support the transformation of Radio-Television of Albania (RTSH) into a genuine public service broadcaster, by clarifying roles and responsibilities and guaranteeing the transparency of management.</p> <p>21. Journalists' associations and intergovernmental organisations should take appropriate steps of their own to support the transformation of RTSH.</p> <p>22. The Government and relevant NGOs should seek to engage all involved actors in a public debate on the future of RTSH. This should include RTSH journalists, past and present directors, the regulatory authority (KKRT), NGOs and the journalism community in general.</p> <p>23. Civil society organisations should bring concerns over RTSH to public attention and request solutions from the competent authorities. Regarding TVSH, these concerns include, but are not limited to, programme quality, transparency of administration, effectiveness of management, and independence from government and political factions.</p> | <p>The new management of RTSH seems to have embarked on serious reform. It is too soon to draw conclusions about its strategy, but it is safe to say that they will need financial and technical assistance and will have to put in place wise and efficient management of resources.</p> <p>Therefore, the recommendations from the initial report are still valid. The Government should support the reform of RTSH, and journalists' associations should organise public debates and offer their expertise to help this reform. Programme quality, transparency of administration, and management efficiency should continue to feature among the topics that civil society brings to wider attention.</p> |
| <i>Funding</i>   |   |
| <p>24. The Government should ascertain and publish the revenue levied through the licence fee. When this has been done, thought should be given to ways of improving the rate of payment of this fee.</p>  | <p>This recommendation has not been fulfilled. The Government still has to make the use of licence fee income more transparent.</p>   |
| <i>Programming</i>   |   |
| <p>25. The management and staff of TVSH should improve the quality of programming output and define a programme framework that would increase the public interest and appeal of the station.</p>   | <p>Despite the recent changes at RTSH, the station's management and staff should improve programming.</p>   |

## 1.5 Civil society

|   |  |
|---|--|
| <i>Codes of ethics</i>  |  |
| 26. Journalists' associations should draft codes of ethics or amend the existing one, raise awareness of these codes, and promote compliance with them.   | In September 2006, journalism associations approved a code of ethics for all media in the country. However, the code has not been "officially" adopted by any media outlet and there is no mechanism for implementing it. Journalists are free to decide whether they want to observe it or not. An efficient self-regulatory system and a safe environment for journalists are still distant goals. |
| <i>Media associations</i>   |  |
| 27. Journalists' associations should significantly strengthen the capacities for public debate and awareness of media organisations and associations, particularly through improved cooperation and by promoting journalists' rights vis-à-vis media owners and the Government.<br>28. International and intergovernmental organisations should provide experience and assistance for strengthening media associations. | There has not been much progress in this respect. Journalists' associations should continue to improve their capacities. International and intergovernmental organisations, which have assisted this process to date, should continue their support.   |

## 2. NEW RECOMMENDATION BASED ON THE 2008 REPORT

### 2.1 Legislation

#### *Digital television*

1. The KKRT should draft a Strategy for Digital Switch-over and then start the digital licensing process.
2. The drafting of the Strategy should be approved after public debate with relevant stakeholders. It should take into account issues such as consumer protection, investments in digital platforms already done in the country, and media pluralism and competition.

## C. Main Findings of the Follow-up Monitoring

### 1. GENERAL BROADCASTING ENVIRONMENT

#### 1.1 Key developments in legislation and policy

Since the “TV Across Europe” reports were published in 2005, Albania’s experience has been quite eventful in terms of media legislation and policy, with heated debates on the future of the regulatory authorities, the transparency of media funding, and digital broadcasting. The composition of the regulatory authorities has been changed by law. Other legal amendments seek to reduce the economic dependence of electronic media on State advertising and hence potential abuse.

After lengthy and spirited debates among broadcast owners, members of parliament, regulators, RTSH and industry associations, Albania is primed to legalise its digital platform, as required by the Law on Digital Broadcasting.<sup>2</sup> Digital broadcasting, via satellite and terrestrial platforms, has developed rapidly over the past three years, reaching a significant penetration. After almost four years in operation, the digital TV platform DigitAlb boasted 120,000 subscribers in early 2006 in Albania and among Albanians abroad.<sup>3</sup> Assessing the law’s impact on DigitAlb and its subscribers will be a further test for the regulatory authority. On the other hand, it remains to be seen whether the other broadcasters, especially TVSH, will be able to invest in digitalisation and compete with DigitAlb.

TVSH continues to fail in fulfilling its mission. The management appointed in late 2006 faces the formidable task of making the station a truly public service operator despite suffering a continuous decline in popularity while the commercial stations gained loyal viewers. A long overdue step in this regard was taken in August 2007 with the joint drafting of a development strategy for RTSH in the digital era by TVSH and the European Broadcasting Union (EBU), with the benefit of advice from the Council of Europe’s Media Division.

#### 1.2 EU legal provisions

Albania has partly incorporated European media legislation and standards. In 1999, the country signed and ratified the Council of Europe’s Convention on Transfrontier Television and its Additional Protocol. Many provisions of the Law on Radio and

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<sup>2</sup> Law no. 9742 of 28 May 2007 on Digital Broadcasting in the Republic of Albania (hereafter Law on Digital Broadcasting).

<sup>3</sup> According to data from DigitAlb (available at <http://www.digitalb.tv/kompania/>, accessed 31 July 2007).

Television<sup>4</sup> derive from this agreement and in a way also fulfil some requirements of the Television Without Frontiers (TVWF) Directive,<sup>5</sup> such as provisions on sponsorship, advertising, the right to reply, and the protection of minors.

Albanian media legislation did not incorporate the TVWF Directive's requirements on teleshopping and broadcasting European works. The Law on Digital Broadcasting introduced the requirement that European works should account for 50 per cent of a station's programming, stipulating that this proportion could be achieved progressively. However, compliance with these standards has yet to be monitored, as this law is still very young. There was an idea of setting up a working group comprising three independent media experts who would review the Law on Radio and Television and propose changes to bring it in line with EU law. This never materialised. The Parliamentary Standing Commission on the Means of Public Information (hereafter, the Parliamentary Media Commission) does this work instead, but its pace is slow, due to Parliament's absorption by other matters – currently, judicial reform. However, there are efforts to reform media legislation. The regulators and experts in the Parliamentary Media Commission submitted their proposals for legal amendments, but it is not clear yet what the next steps will be.<sup>6</sup>

Although there has been no continual monitoring of how these provisions have been implemented, no problems have yet emerged.<sup>7</sup> On the other hand, implementation of other provisions inspired by EU legislation affecting media has been sloppy. As in many other sectors in Albania, the media industry lacks transparency and the provisions guaranteeing transparency of ownership and funding remain difficult to implement. This is due to the overall lack of transparency in the market. A step forward was an amendment in July 2006 to the Law on Radio and Television, prohibiting media owners from participating in public tenders.<sup>8</sup> However, again,

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<sup>4</sup> Law no. 8410 of 30 September 1998 on the Public and Private Radio and Television in the Republic of Albania, as amended by Law no. 8657 of 31 July 2000; Law no. 8794 of 10 May 2001; Law no. 9016 of 20 February 2003; Law no. 9124 of 29 July 2003, and Law no. 9677 of 13 January 2007 (hereafter, Law on Radio and Television).

<sup>5</sup> Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, *Official Journal*, L 202, 30 July 1997, P. 0060 – 0070. (The directive was amended last year: Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, *Official Journal of the European Union*, 18 December 2007, L 332/27.)

<sup>6</sup> Interview with Vjollca Meçe, advisor to the Speaker of the Parliament, Tirana, 17 January 2008.

<sup>7</sup> Interview with Andrea Nathanaili, Director of Programming at the KKRT, Tirana, 6 July 2007.

<sup>8</sup> Law on Radio and Television, Art. 20.

because of the general lack of transparency and low accountability on the part of both the media and the Government, this provision is easily circumvented.

### 1.3 Broadcasting market

TV stations keep growing in number and arguably in quality, but without systematic and credible audience research, the real market share of each station is not known. The Institute of Surveys and Opinions, which earlier attempted to measure audience ratings, launched a new venture in audience research in 2007. However, it is still too early to have clear results. For example, Top Channel, a station that did not have a nationwide licence until January 2008, is reckoned to enjoy an average audience share of 70 per cent.<sup>9</sup> Although the station is indisputably popular, this figure is just a loose estimate by local experts and observers, with no official data behind it. The other most-watched TV stations are believed to be TV Klan, Vizion+, TV Koha, and the all-news channels News24 and Alsat. Although TVSH still has the largest coverage of territory, its “decreasing programming quality”<sup>10</sup> has led to a loss of competitive edge.

## 2. REGULATION AND LICENSING OF THE TELEVISION SECTOR

### 2.1 Regulatory authorities and framework

Until 2006, the Law on Radio and Television stated that the KKRT was an independent body, consisting of a Chair, a deputy Chair and five other members, elected on the basis of experience and qualifications in social, judicial, economic, educational, and media fields. The President of the Republic proposed one candidate, while the other six were proposed by the Parliamentary Media Commission. Parliament then selected the members and the Chair by simple majority voting.<sup>11</sup>

In February 2006, the Government proposed a legal amendment to cut the KKRT to five members, and to change the nomination formula. Claiming that the formula of balanced representation of parliamentary parties in the regulatory body had clearly not worked, the Government proposed a greater involvement of civil society, media associations, academia, and other similar organisations in the nomination process. The proposal sparked an intense debate, creating a climate of suspicion among stakeholders,

<sup>9</sup> A. Stefani, “Të pavarurit, kali i Trojës në media” (“The independent”, the Trojan horse in the media) *Panorama*, 16 February 2006, p. 17.

<sup>10</sup> IREX, Media Sustainability Index 2006 – Albania, IREX, Washington D.C., 2007, p. 6, available on the IREX website at [http://www.irex.org/programs/MSI\\_EUR/2006/albania.asp](http://www.irex.org/programs/MSI_EUR/2006/albania.asp) (accessed 1 August 2007) (hereafter IREX, *MSI 2006 – Albania*).

<sup>11</sup> OSI/Albania, chapter on regulatory authority, pp. 194–199.

most of whom believed that the Government wanted to bring the KKRT under control. While everybody agreed there was a strong need for reform, many voiced the concern that this proposal did not guarantee any improvement: “As a member of the Parliamentary Media Commission I believe that changes need to be made in this area, but sneaking in this proposal, especially from the Government, and particularly when we are talking about the fourth estate that is the media, leaves a bad taste.”<sup>12</sup>

In addition to concerns over the content of the draft amendments, many TV stations, journalists’ associations, civil society representatives and media experts objected to the lack of debate and consultation prior to the amendments’ submission to Parliament. As a result, the Parliamentary Media Commission invited the most important media owners and directors along with heads of journalism associations, lawyers, and civil society representatives to present their proposals.

The current law was approved by Parliament in May 2006, after heated debate. Vetoed by the President, the law was approved again in June 2006 and became statutory. The Government’s idea of cutting the KKRT’s membership to five was accepted, with the proviso that the following associations and groups may propose at least four candidates for each seat:<sup>13</sup>

- electronic media associations and groupings,
- print media associations,
- universities and associations of electric and electronic engineering,
- lawyers’ associations, faculties of law, and the National Chamber of Lawyers,
- parliamentary parties.

From these candidates, the Media Commission shortlists no more than two candidates for each seat, and proposes them to Parliament for the final vote.<sup>14</sup> The amended law also states that candidates with doctoral degrees are preferred and that such a degree is mandatory for candidates nominated by universities and associations of electric and electronic engineering.<sup>15</sup>

The amended Law on Radio and Television also narrowed the eligibility criteria for the KKRT’s members. For example, members of parties or political associations, or persons

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<sup>12</sup> N. Lesi, “A duhet të merremi me ligjin për mediat elektronike?” (Should we deal with the law on broadcasting?), *Koha Jonë*, 10 February 2007, p. 3. (Nikollë Lesi is an MP and former media owner.)

<sup>13</sup> Law no. 9531 amending the Law on Radio and Television with the chapter “On Public and Commercial Radio and Television”, 11 May 2006, *Official Gazette*, no. 65, 2006, Art. 2, paragraph 1.

<sup>14</sup> *Ibid.*, paragraph 2.

<sup>15</sup> *Ibid.*, paragraphs 3 and 4.

who have served or run for the mayor's office and/or Parliament, or who have been members in the Council of Ministers or prefects over the last two governing terms are not eligible.<sup>16</sup> This change was part of the general ethos of making the KKRT into a more professional body.

The debate that followed the election of the KKRT's members according to the new formula was even more heated. They were appointed on 29 July 2006 during the final session of Parliament before the summer break. Opposition MPs declined to vote. The appointment of the KKRT's members, along with that of the TVSH Steering Council members, came at a time when a crisis between the majority and the opposition politicians had reached its peak. The reason behind the clash was disagreement over the amendments to the legislation on broadcasting and electoral reform, which is ongoing in Albania. But in summer 2006, all these issues were especially controversial in view of the upcoming (February 2007) local elections. When the parties in Parliament reached agreement on 30 July 2006, it included a commitment to restore the number of the KKRT members to seven, with the two extra members appointed by opposition MPs from civil society candidates.<sup>17</sup>

However, instead of increasing, the KKRT's membership sank to four after the June 2007 resignation of its chairman Ledi Bianku. Until the vacancy was filled in September 2007, the KKRT only made decisions that did not require a quorum. This impeded its work.

In the meantime, amid a climate of suspicion and general criticism from opposition politicians and some TV stations that claimed the KKRT was still a politicised body, the regulator has been carrying on with internal reform. In December 2006, Parliament approved a revision of the administration scheme, which increased the KKRT's staff from 32 to 48,<sup>18</sup> and restructured its departments with a view to improving its monitoring of both airwave piracy and territorial coverage by electronic media. It also proposed to establish a public relations unit to improve the regulator's transparency. The most significant reform involved increasing the programming unit from six to 15 employees, to improve the monitoring of electronic media content. As and when these changes are put in place, the unit is expected to be able to monitor news programmes on a daily basis, as well as advertising, ethical problems and other issues which the KKRT has not covered before.<sup>19</sup>

The plan also proposed changes to the KKRT's complaints council, an advisory body responsible for dealing with moral and ethical aspects of programming. Its decisions

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<sup>16</sup> *Ibid.*, Art. 4.

<sup>17</sup> Agreement of 30 July 2006, cited in D. Ndrenika, "Arrihet marrëveshja PD-PS; plotësohen kërkesat e opozitës" (PD-PS agreement is reached; opposition's demands are satisfied), *Shekulli*, 31 August 2006, p. 3.

<sup>18</sup> KKRT, Explanatory Report to Parliament, received from the KKRT.

<sup>19</sup> *Ibid.*

lack, however, any legal binding force.<sup>20</sup> Under the reform plans, the body has been renamed the Council of Ethics. Comprising three members as before, who are three media experts appointed by the regulator, the Council of Ethics is responsible for raising public awareness of ethical norms and violations in programming: “This vision stems from the concept that institutions should not only follow public preferences regarding ethical aspects in the media; with professionalism and specialised judgment they should guide society to higher standards.”<sup>21</sup>

The Council of Ethics is thus expected to assume a more active role than just accepting complaints from the public. However, it is too early to assess the impact of these changes as the Council was constituted in June 2007 and has just started its activity. The reform plan is in its final stage of implementation.<sup>22</sup>

## 2.2 Licensing system

The reform of the KKRT had no effect on the system of awarding broadcast licences. The only change pertains to the power to grant licences for digital broadcasting, a law which passed in June 2007 but has yet to be implemented.<sup>23</sup>

As far as licensing is concerned, two of the KKRT’s decisions have been controversial in the past three years: one regarded the awarding of a broadcast licence to a local TV station; and the second was about the removal of broadcasting antennas of some TV stations.

In mid April 2007, the KKRT announced an inspection of the frequency spectrum across the country. Electronic media outlets operating without licences were told to cease broadcasting.<sup>24</sup> According to the then-KKRT Chair, Ledi Bianku, this spectrum clean-up was meant to enable the implementation of the Frequency Plan, so strengthening competition among existing operators before the introduction of digital broadcasting.<sup>25</sup> On 9 May 2007, the KKRT decided to remove unauthorised broadcasting antennas in several cities. These antennas belonged to Top Channel TV, Vizion Plus TV, Telesport and TV Koha, which accused the regulator of playing

<sup>20</sup> OSI/Albania, chapter on regulatory authority, pp. 194–199.

<sup>21</sup> KKRT, *2006 Raport Vjetor në Kuvendin e Shqipërisë* (2006 Annual Report to Parliament), available at <http://www.kkrt.gov.al/images/stories/kkrt/files/Raporti-Perfundimtar-2006.zip> (accessed 15 June 2007) (hereafter KKRT, 2006 Annual Report).

<sup>22</sup> Interview with Elona Kana, Director of the Department of Jurisdiction and Licences at the KKRT, Tirana, 18 January 2008.

<sup>23</sup> OSI/Albania, chapter on regulatory authority, pp. 194–199.

<sup>24</sup> KKRT, Press Release “Inspection of All Frequency Spectrum in Albania,” available at <http://www.kkrt.gov.al/content/view/26/1/> (accessed 15 June 2007).

<sup>25</sup> The KKRT’s 2002 study on the frequency plan for analogue television was updated in 2007 in line with the redistribution of frequencies as decided by the Regional Radiocommunications Conference in 2006 (RRC-06).



politics, and shutting them down because of their critical stance towards the Government.

The KKRT argued that the inspection had been announced seven months in advance, in accordance with the legal licensing criteria.<sup>26</sup> Bianku reiterated that the regulator was obliged to overhaul the national frequency plan in order to make room for a new nationwide broadcaster and the launch of digital licensing.<sup>27</sup> Indeed, one month after this decision, the KKRT announced a tender for a fourth nationwide TV station.<sup>28</sup> Top Channel and Vizion Plus applied for the new national licence, and on 21 January 2008, by a unanimous decision, Top Channel became the fourth nationwide commercial TV station.

In parallel with this tender, the KKRT resumed its campaign to remove illegal antennas in October 2007 in Elbasan, central Albania, and Korca, in South East Albania. In Gjirokastra, the KKRT also confiscated the antennas and equipment of several Greek TV channels that were broadcasting without licences in the southern part of the country.<sup>29</sup>

The TV antenna saga was preceded by another controversy, involving the award of a broadcast licence to a Tirana-based all-news TV station. The KKRT, with its old membership, froze the licensing process for Tirana and the town of Durrës in Central Albania in May 2003.<sup>30</sup> On 17 July 2006, the KKRT decided to freeze the licensing process across the whole country.<sup>31</sup> Both decisions were prompted by the chaos marring the frequency spectrum, especially around the capital, and by the lack of a national frequency plan.<sup>32</sup> The KKRT now says that neither of these decisions had any legal basis;<sup>33</sup> on the contrary, they were “absurd” and “discriminatory”, as the former KKRT team had already granted licences in the areas where they then prohibited

<sup>26</sup> KKRT Press release, “KKRT will complete the Spectrum Inspection Plan,” 10 May 2007, available at <http://www.kkrt.gov.al/content/view/33/> (accessed 10 June 2007); see also: Unpublished interview with Ledi Bianku, KKRT chairman, available at <http://www.kkrt.gov.al/content/view/33/1/> (accessed on 10 June 2007). (It was an interview that an Albanian newspaper carried with the Chair of the KKRT, but which then was never published. The KKRT published it on its own website).

<sup>27</sup> *Ibid.*

<sup>28</sup> KKRT Press Release, available at <http://www.kkrt.gov.al/content/view/31/1/> (accessed 10 June 2007).

<sup>29</sup> KKRT Press Releases, October 2007, available at <http://www.kkrt.gov.al/content/archivecategory/2007/10/1/> (accessed 24 January 2008).

<sup>30</sup> KKRT Decision no. 143, cited in KKRT Annual Report 2006, *op. cit.*, p.6.

<sup>31</sup> KKRT Decision no. 501, cited in KKRT Annual Report 2006, *op. cit.*, p.6.

<sup>32</sup> Interview with the ex-Chair of the KKRT, Sefedin Cela, “Të gjitha gabimet e Biankus dhe Dodës për licensën e re”, (All the mistakes of Bianku and Doda on the new licence), *Gazeta Shqiptare*, 25 December 2006, p. 7.

<sup>33</sup> KKRT Annual Report 2006, *op. cit.*, p. 7.

licensing of TV stations.<sup>34</sup> Therefore, the KKRT ended the licensing freeze and gave a green light for broadcasting to 21 new operators, seven local TV stations, 12 cable TV providers and two local radios, in 2006 and early 2007.<sup>35</sup>

The most controversial of these decisions concerned Ora TV, an all-news channel. Several parties, including other TV stations, journalists and opposition politicians, said that Ora TV should not have been given a licence. The most critical was the most-watched news channel, News24 TV, which claimed that the KKRT had broken the law by licensing a company that lacked the necessary capital required by law to start a station. For Ora sh.p.k., the company behind Ora TV, admitted to possessing capital of ALL 100,000 (€816), whereas the minimum required by the regulator was a guarantee of ALL 25 million (€204,000).<sup>36</sup>

Moreover, News24 TV alleged that Ora TV was caught in a conflict of interests as Ilda Prifti, the owner of Ora sh.p.k.,<sup>37</sup> is the cousin of Alba Gina, who owns 40 per cent of the company that owns the nationwide TV Klan, according to press reports.<sup>38</sup> The law prohibits the owners of one nationwide broadcaster from directly or indirectly owning shares in another.<sup>39</sup> In this case, there is no strict breach of the law, since the owners are different individuals. However, critics pointed to the fact that Prifti, who was 18 when Ora TV received the licence, lacks the professional experience and capital to start a TV channel, being merely a pawn for the real owners.<sup>40</sup> Following News24 TV's complaints, the General Prosecutor's Office started an investigation into this matter in December 2006. Insisting that its decision was in full accordance with the law, the KKRT claimed that it had even consulted the Competition Authority (*Autoriteti i Konkurrencës*) and the Office of the Commercial Register.<sup>41</sup>

Under the broadcasting law, the KKRT is responsible for granting licences for digital broadcasting. The law distinguishes between three sorts of licences: for service providers, network operators and content providers.

The licences for terrestrial digital networks are divided as follows:

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<sup>34</sup> *Ibid.*, p.8.

<sup>35</sup> *Ibid.*, p.15.

<sup>36</sup> *Ibid.*

<sup>37</sup> Information obtained by the author from the KKRT, Department of Jurisdiction and Licences, 13 July 2007.

<sup>38</sup> *Ibid.*

<sup>39</sup> OSI/Albania, section on commercial broadcasters, p. 226.

<sup>40</sup> Gazmend Janku, "Prokuroria nis hetimin për skandalin e licensës në KKRT (The Prosecutor's office starts investigating the scandal of KKRT licensing), *Gazeta Shqiptare*, 24 December 2006, p. 10.

<sup>41</sup> KKRT Annual Report 2006, p. 18.

- *nationwide* (valid for ten years) when they cover not less than 80 per cent of the country,
- *regional* (valid for eight years) when they reach up to four geographically adjacent administrative units,
- *local* (valid for eight years) when they cover only one administrative unit.<sup>42</sup>

The KKRT has to allocate the licences in full agreement with the Plan of Frequencies adopted by the RRC-06. If a digital operator plans to build a network using a frequency that is occupied by an analogue operator, then the KKRT has to grant a different frequency to the analogue operator and cover any expenses incurred by the transfer. If the regulator cannot meet such expenses, the digital operator has to share the costs.<sup>43</sup>

The law obliges analogue operators to simulcast until the percentage of households receiving analogue broadcasting sinks below 10 per cent of the total area where they air. On the other hand, RTSH has the right to use two of the seven nationwide frequencies assigned by the RRC-06 to Albania for digital use.

The KKRT is also responsible for licensing content providers.<sup>44</sup> Licences can be granted to broadcasters who broadcast either one TV or radio programme or a “bouquet” of programmes. Each programme service also has to be licensed by the KKRT, which defines the criteria and conditions for the programmes as well as the rights and obligations of the licensee. In this framework, the existing analogue broadcasters can be considered already licensed as content providers until the analogue signal is switched off.

The law also imposes some obligations on digital network operators. They must offer at least 50 per cent of their services free-to-air, while the public service broadcaster may not charge for any of its programmes.

Although the KKRT has not yet started to grant digital licences, it has defined the criteria for granting licences to network operators.<sup>45</sup> They require a minimum capital of ALL 1 billion (Lek), or €8.17 million, for a nationwide licence, ALL 400 million (€3.27 million) for a regional licence, and ALL 100 million (€817,000) for a local licence. In addition, the digital broadcasters should comply with several other requirements, including fairness and editorial independence in their news and information services.

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<sup>42</sup> Law on Digital Broadcasting, Art. 3.

<sup>43</sup> *Ibid.*, Art. 3.

<sup>44</sup> *Ibid.*, Art. 5.

<sup>45</sup> KKRT Criteria for digital licensing.

At first sight, the licensing criteria seem fair and public-oriented, especially with regard to the emphasis on choosing non-proprietary standards, transparency of costs and broad choice on content. The regulator is vested with power to scrutinise the licensing criteria and choose the licensees. Normally, this would call for an independent, strong, and professional authority. Unfortunately, despite the progress it has made, the KKRT has yet to show that it fully merits these epithets.

Although the digital licensing process has yet to start, digital television arrived in Albania when DigitAlb started broadcasting on 15 July 2004, despite strong opposition from both the regulatory authority and other TV stations. DigitAlb has aired for almost four years now, boasting an increasingly high number of subscribers: 120,000 by early 2006, according to the latest figures available.<sup>46</sup> The company has said that the numbers of subscribers has increased since then. DigitAlb covered Western Albania, from Shkodra in the north to Vlora in the south until 2006.<sup>47</sup> Presently, the company claims that it covers the entire country.<sup>48</sup> Under the digital law, however, its operations could become problematic, for the company's footprint would require four nationwide licences while the law states that no operator can own more than one nationwide licence. DigitAlb offers a terrestrial bouquet of 38 thematic and generalist TV channels, and two radio stations. To be in line with the law, the station would have to drastically cut the number of channels offered. This will be even more complicated as DigitAlb already has a significant number of clients and only a few companies seem interested in entering this new and rather costly sector.

In fact, the debates preceding the adoption of the law focused on its impact on the existing market, where DigitAlb has become a successful player. DigitAlb's representatives insisted that they asked for nothing more than legalisation of their activity, without having to start from scratch.<sup>49</sup> The Government submitted the law to Parliament in February 2007, at a time when Parliament had already adopted – in co-operation with the Council of Europe – an action plan to review the media legislation and draft a law on digital broadcasting by the end of the year. Media owners and directors protested that they were not consulted on such an important law. Moreover, after several hearings with the stakeholders and receiving comments and suggestions from the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, and European Commission, the ruling majority passed the law without the consent of the minority, which refused to vote. The debates on the amendments to the law rarely focused on their purpose and effects, which raises questions about how efficiently this law will be implemented.

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<sup>46</sup> DigitAlb website, available at <http://www.digitalb.tv/kompania/> (accessed 12 March 2008).

<sup>47</sup> Interview with Altin Petre, IT Manager with DigitAlb, Tirana, 16 May 2006.

<sup>48</sup> DigitAlb website, <http://www.digitalb.al/kompania.php> (accessed 17 March 2008).

<sup>49</sup> Minutes of Meeting of Parliamentary Media Commission, 20 April 2007, available at <http://www.parlament.al/dokumenti.asp?id=2351&kujam=Komisioni> (accessed 18 October 2007).

The law does not specify an analogue switch-off date, although it obliges broadcasters to make their programme available both in analogue and digital signals until their digital signal reaches more than 90 per cent of the licensed area. This provision might prompt the service providers and network operators to speed up the digitalisation process, but on the other hand, broadcasters will incur higher costs during the simulcast period. Moreover, it will be difficult to speed up the digitalisation process without subsidies for set-top boxes.

Since approving the law, the KKRT has been consulting with DigitAlb on the licensing criteria. The KKRT has received assistance from the OSCE in drafting a Strategy for Digital Switch-over. The digital licensing process is frozen until the Strategy has been approved. The Strategy has yet to be completed and published. It will have to take into account the role of DigitAlb.

### **3. REGULATION AND MANAGEMENT OF PUBLIC SERVICE TELEVISION BROADCASTING (PSB)**

#### **3.1 PSB legislation and policy**

The 2006 amendments to the Law on Radio and Television, which regulates RTSH, affected the regulation of the public service broadcaster. However, the main provisions on the station's public mission and content have remained the same.

The new legislation on digital broadcasting preserves a special role for RTSH. Two out of seven nationwide frequencies assigned to Albania until 2015 are reserved for RTSH. The KKRT has recommended RTSH to launch a second channel directly on digital broadcasting.<sup>50</sup> In fact, in July 2007, TVSH prepared a plan of reform in co-operation with the European Broadcasting Union (EBU), which focuses on the transition to digitalisation. It is too soon to predict whether this strategy will be feasible, let alone successful. It will certainly need substantial financial support, as well as rigorous and energetic implementation by TVSH.

#### **3.2 PSB governance structure**

The Steering Council is still the highest body in RTSH. Until July 2006, it consisted of 15 members, appointed by Parliament for a period of five years, with the possibility of re-election after a break of three years. Members had to be elected from among well-known personalities in culture, art, cinema, journalism, law, economics, media, public relations, international relations, the universities and the Academy of Sciences. Under this formula, the members were proposed in an equal number by the ruling majority, political opposition and civil society. The then-opposition considered that this formula

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<sup>50</sup> KKRT Annual Report 2006, p. 21.

hurt the independence of the institution, arguing that in fact the civil society representatives supported the parliamentary majority. Whether this was actually the case, would be very difficult to assess. Supporters of this formula argued that, on the contrary, this was the only way to ensure the essential civil society element in the membership of the public institution.

The current ruling majority presented an amendment to the law in February 2006 that aimed to change the formula and composition of both the KKRT and RTSH's Steering Council so that the governing bodies of RTSH could resist politicisation. The former Chair of the Steering Council, Kico Blushi, explained: "It is not we who decide, but they, the party heads, who want the directors and members of the council to act as puppets without dignity of their own, who are easily and remotely controlled via mobile phones."<sup>51</sup> After extensive and heated debate, the amendments were approved in July 2006 despite opposition protests.

Under the amended law, the Steering Council membership is slashed from 15 to seven. The logic and procedure of nomination and appointment are similar to those in place for the KKRT. The following associations and groups can propose at least four candidates for each Steering Council member:<sup>52</sup>

- electronic and print media associations,
- University of Tirana,
- associations of electric and electronic engineering,
- lawyers' associations, legal academics, and the National Chamber of Lawyers,
- Parliamentary groups,
- NGOs dealing with human and children's rights,
- advisory boards of the National Centre of Cinematography and the League of Writers.

The Parliamentary Media Commission has the task of shortlisting up to two candidates for each seat.<sup>53</sup> Candidates with doctoral degrees are preferred. Such degrees are mandatory for candidates proposed by the university and the associations of electric and electronic engineering.<sup>54</sup> In order to guarantee continuity, the Chair and three

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<sup>51</sup> Kico Blushi, "Televizioni që ka mbetur pengë i partive" (The television that has remained hostage to the parties), *Standard*, 17 March 2006, p. 23.

<sup>52</sup> Law n. 9531, 11 May 2006, *Official Gazette*, 65, 2006, Art. 2, paragraph 1.

<sup>53</sup> *Ibid.*, paragraph 2.

<sup>54</sup> *Ibid.*, paragraphs 3 & 4.

members are elected for a five-year period while the other three are elected for a three-and-a-half-year term.<sup>55</sup>

Under the old law, MPs, ministers, senior government officials, leading members of political parties, RTSH employees or employees and owners of private media were barred from membership in the Steering Council. Under the new law, more restrictions were added. Barred from membership are now also people who own, or are related to owners of shares in companies operating in audiovisual broadcasting, advertising, production, the press, telecommunications, and members and/or employees of the governance structure of these structures. Persons who have been removed from civil service for disciplinary reasons and current RTSH employees or former RTSH employees in the last three years are also ineligible.

The opposition and some other observers argued that the new composition of the RTSH Steering Council offers no guarantees of editorial independence: “The so-called independent representatives have until today been ‘the Trojan horse’ of the politics in these institutions. In order to avoid the risk that ‘the independents’ would serve power or political parties instead of the public, it is necessary for the [representation of the] independents to be [politically] balanced as well.”<sup>56</sup>

The Steering Council was elected by the ruling majority in July 2006, according to the new formula. However, because the opposition refused to co-operate in the reform of the electoral procedure preceding the 2007 local and presidential elections, the ruling coalition agreed to change the Council’s composition once again. According to an August 2006 agreement between the governing and opposition MPs, the composition of the Steering Council would increase from seven to 11, with the four additional members to be nominated from civil society by the opposition members of the Parliamentary Media Commission.<sup>57</sup> However, the Council functioned with only seven members until September 2007 as Parliament failed to elect the additional members of both the KKRT and the Steering Council due to continual presidential crises and sustained work on the Law on Digital Broadcasting. Once again, political bickering and the tendency to take sides rather than unite for the common good have hindered the normal and independent functioning of the station’s regulatory body.

In its 2006 Annual Report, the Steering Council highlighted the difficulties facing it and commended the public broadcaster’s progress in terms of editorial independence and programming structure. In addition, while calling for greater government assistance to RTSH, Parliament pledged to draft and approve the full plan for reform

<sup>55</sup> *Ibid.*, Art. 9.

<sup>56</sup> A. Stefani, “Të pavarurit’, kali i Trojës në media,” (“The independent”, the Trojan horse in the media), in *Panorama*, 16 February 2006, p. 17.

<sup>57</sup> Agreement of July 30 2006 cited in Denion Ndrenika, “Arrihet marreveshja PD–PS; plotësohen kërkesat e opozitës” (PD–PS agreement is reached; opposition’s demands are satisfied), *Shekulli*, 31 August 2006, p. 3.

of RTSH by the end of 2007. In August 2007, RTSH put together a development strategy for the period 2008 to 2010 and submitted it to the Government. Busy with other laws, Parliament has thus far failed to discuss this strategy.

The General Director continues to wield substantial authority, reporting to the Steering Council but not obliged to execute its orders.<sup>58</sup> The Steering Council is in charge of appointing and has the right to dismiss the General Director. The Council that was appointed in 2006 sacked the then-General Director, Artur Zheji, on grounds of mismanagement and lack of reform, which, they say, was still prone to political dependence. In a public letter, Mero Baze, a member of the Steering Council, said that, “with the full awareness of its directors, RTSH has avoided public debate for years and has turned into an almost banal station, which served only the limited interests of its directors and their political relations.”<sup>59</sup>

Zheji rejected all the criticism and said that his dismissal was against democratic principles. “It is impossible to start the reform of RTSH by violating one of the principles of media democracy, which is the mandate of the General Director.” He added that his removal was a hasty decision, based more on political affiliations than pragmatic reasons.<sup>60</sup> The current General Director, Petrit Beci, was elected on 10 November 2006. Beci previously served as a Deputy Director of the public broadcaster and has broad experience as a manager of one of the nationwide commercial televisions.

The third layer of power in the public broadcaster is the Management Council, which serves as a consultative organ to the General Director, advising the Director on a number of important financial and property-related issues. Without any role in programming, the Management Council’s consent is mandatory in a number of decisions such as property transactions, employment contracts and other negotiations and agreements with the staff and the unions.

The governing structure is intended to guarantee RTSH’s balanced and impartial work as well as its legitimacy as a public institution. Unfortunately, this has not been achieved. In fact, many observers, including members of the RTSH governing structures, complain that the way the system is set up is the main source of the problem. Members of the Steering Council say that their powers in relation to the General Director are too limited. Some members say that the main decisions are made by the General Director, while their role in the decision-making process is not significant. For instance, the former Chair of the Steering Council, Kiço Blushi, claimed that “for two years the [Steering] Council did not approve adequate

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<sup>58</sup> OSI/Albania, pp. 214–216.

<sup>59</sup> Mero Baze, “Përse ndryshimi në RTSH duhet të nisë nga Drejtori i Pergjithshem?” (Why the change in RTSH should start from General Director?), *Shqip*, 26 October 2006, p. 11.

<sup>60</sup> Artur Zheji, “Stili vrastar i një shkarkimi” (The murderous style of a dismissal), *Shqip*, 28 October 2006, p. 7.



programming structures due to the political submission of the General Director who is appointed by us, but not through our own choice”.<sup>61</sup>

### 3.3 PSB funding

The annual licence fee stands at ALL 500 (€4.1) per household. It is supposed to constitute one of the main sources of income for the public service broadcaster. Until 2006, the RTSH budget did not detail the total sum collected from the licence fee. The station’s 2006 report indicated a 362 per cent increase in licence fee revenue in 2006, from the planned ALL 19 million (€155,000) to ALL 68.7 million (€563,000).<sup>62</sup> Despite this spectacular growth, calculations reveal that the revenues represent the licence fee as paid by approximately 8,600 TV households, which is significantly low in a country of three million with more than 500,000 TV households.<sup>63</sup> Hence, more efficient collection of the licence fee is desperately needed as this could be central to TVSH’s independence from the State budget.

The licence fee is collected in January, with the energy bill. Until 2006, the Electric Energy Corporation (KESH) remitted the licence fee money to the State budget and only then did Ministry of Finance channel the funds to RTSH, without revealing how much had been received from the energy utility. In 2006, RTSH signed an agreement with Albanian Power Corporation (KESH, *Korporata Elektroenergjitike Shqiptare*) and the Directorate of Taxes, securing direct payment of the licence fee revenues to RTSH. However, due to its recent economic difficulties, KESH is not expected to improve its collection of the licence fee in the near future.<sup>64</sup>

The station’s self-generated revenue has also increased over recent years, reaching 65 per cent of RTSH’s total budget in 2006.<sup>65</sup> However, RTSH is still slow at pulling in healthy advertising cash. The station managed to collect only 44 per cent of its planned income from advertising in 2006. This was probably due to competition from more powerful commercial stations. In addition, the financing from the State budget was also down. In 2006, TVSH received ALL 300 million (€2.46 million) from the State budget, which was about half the sum it had received in previous years.<sup>66</sup> The financing from the State budget started to increase modestly again. In 2007, RTSH’s

<sup>61</sup> Kiço Blushi, “Televizioni që ka mbetur peng i partive” (The television that has remained hostage to the parties), *Standard*, 17 March 2006, p. 23.

<sup>62</sup> RTSH, *Raporti Vjetor për Veprimtarinë e RTSH 2006*, (Annual Report on the Activity of RTSH), RTSH Steering Council, 2007, p. 15. (hereafter RTSH Annual Report 2006).

<sup>63</sup> Source: Instat and EBU, cited in OSI/Albania, p. 134.

<sup>64</sup> Interview with Diana Kalaja, Deputy General Director of RTSH, Tirana, 21 January 2008.

<sup>65</sup> RTSH Annual Report 2006, p. 15.

<sup>66</sup> OSI/ Albania, pp. 208–212.

subsidy from the State budget was ALL 312 million (€2.52 million).<sup>67</sup> In 2008, the State allocated ALL 438 million (€3.65 million) to RTSH.<sup>68</sup>

An important source of revenue is the rental of broadcasting antennas over which the station has a legal monopoly. However, in the past the collection of these fees was problematic. The accumulated debt of those using these antennas reached ALL 194.1 million (€1.59 million) by the end of 2006.<sup>69</sup> Although the law allows RTSH to cut off the signal of the antennas for those entities that did not pay their fees after due warning, the public broadcaster has never done this because it would entail a series of lengthy legal actions.<sup>70</sup> Therefore, debts have accrued, creating a series of precedents whereby other operators use RTSH's services for free. RTSH has now initiated legal action against the main debtors.<sup>71</sup>

### 3.4 Editorial standards

Like the other media, RTSH has no internal code of ethics and no body to supervise compliance with standards. In September 2006, journalism associations approved a code of ethics for all media outlets in Albania. The process was launched by a Tirana-based media NGO, the Albanian Media Institute, and comprised debates with journalists, editors, media owners, managers and others.<sup>72</sup> However, the code has not been "officially" adopted by any media and there is no mechanism for its implementation. Its observance is thus left to the will of journalists. (*See also section 4.4*)

TVSH journalists do not enjoy any greater protection in their work than their colleagues in commercial television. The lack of working contracts, coupled with the relatively low wages, do not encourage them to pursue editorial independence or produce quality programmes. The station has had in place special working contracts with arbitrary payment methods. Former General Director Artur Zheji claimed that these contracts were introduced to motivate journalists and improve professionalism as the station was paying journalists according to the amount and quality of their work. But the Supreme State Audit (KLSH, *Kontrolli i Lartë i Shtetit*) concluded that these contracts were not legal, and asked RTSH to correct the situation before the next

<sup>67</sup> Law no. 9645, "On State budget 2007," of 27 November, 2006, available at [http://www.qpz.gov.al/botime/fletore\\_zyrtare/2006/PDF-2006/135-2006.pdf](http://www.qpz.gov.al/botime/fletore_zyrtare/2006/PDF-2006/135-2006.pdf) (accessed 15 July 2007).

<sup>68</sup> Law no. 9836, "On State Budget 2008," of 26 November, 2007, available at <http://www.minfin.gov.al/downloads/l-9836.doc> (accessed 25 January 2008).

<sup>69</sup> RTSH Annual Report 2006, p.16.

<sup>70</sup> Supreme State Audit Bulletin of First Quarter of 2007, available at [http://www.klsh.org.al/doc/20070507132319\\_v.\\_departamenti\\_i\\_kontrollit\\_te\\_institucioneve\\_fi\\_nanciare,\\_ndermarrjeve\\_dhe\\_shoqerive\\_publike\\_nr.1-2007.pdf](http://www.klsh.org.al/doc/20070507132319_v._departamenti_i_kontrollit_te_institucioneve_fi_nanciare,_ndermarrjeve_dhe_shoqerive_publike_nr.1-2007.pdf) (accessed 10 July 2007).

<sup>71</sup> RTSH Annual Report 2006, p. 16.

<sup>72</sup> The author of this report works with the Albanian Media Institute.

audit.<sup>73</sup> The RTSH trade unions have repeatedly alleged that these contracts reflected the General Director's own preferences rather than professional motivation.<sup>74</sup>

Unlike some commercial TV stations that seemed to have gained a greater degree of political independence, TVSH still faces political interference. As former Steering Council Chair, Kiço Blushi, put it:

Instead of taking their hands off this institution and assisting its independence as guaranteed by law, through their statements, labelling, pressure, and orders that start from their mobile phones, both political parties and their leaders have forced the public screen to change from blue to pink and vice versa, in accordance with the taste of the heads of two main parties, who measure RTSH's 'quality' and independence by the length of their appearances on this station.<sup>75</sup>

Political interference is especially visible after changes of Government. After the 2005 elections, the coalition of right-wing parties led by the Democratic Party that grabbed power after eight years in opposition, changed the Steering Council, management and some of TVSH's staff. More than 80 TVSH employees were fired, including 10 journalists known to have leftist preferences. Instead, the station hired people who were known not so much for their professional standards as for their closeness to the ruling party and Government.<sup>76</sup>

## 4. COMMERCIAL BROADCASTING

### 4.1 Regulation and management

The commercial broadcasting sector in Albania is large, comprising two nationwide TV stations, 68 local TV stations, two satellite and 44 cable television operators. Nonetheless, the lack of professional research and information from the broadcasters themselves makes it difficult to get a detailed picture of the sector. The sources of financing such a small, but overcrowded market remain a mystery, which raises serious

<sup>73</sup> Supreme State Audit Bulletin of First Quarter of 2007, available at [http://www.klsh.org.al/doc/20070507132319\\_v.\\_departamenti\\_i\\_kontrollit\\_te\\_institucioneve\\_financiare\\_ndermarrjeve\\_dhe\\_shoqerive\\_publike\\_nr.1-2007.pdf](http://www.klsh.org.al/doc/20070507132319_v._departamenti_i_kontrollit_te_institucioneve_financiare_ndermarrjeve_dhe_shoqerive_publike_nr.1-2007.pdf) (accessed 10 July 2007).

<sup>74</sup> Letter of RTSH employees, "RTSH ka nevojë për ndryshime urgjente" (RTSH needs urgent changes), *Tema*, 17 February 2006, p. 11.

<sup>75</sup> Kiço Blushi, "Televizioni që ka mbetur peng i partive" (The television that has remained hostage to the parties), *Standard*, 17 March 2006, p. 23. (Note: In Albanian political life, pink or red symbolises the Socialist Party or the leftists in general while blue is related with the Democratic Party, and the right-wing forces in general.)

<sup>76</sup> IREX, "Albania" in *Media Sustainability Index 2006*, p. 5, available at [http://www.irex.org/programs/MSI\\_EUR/2005/MSI05-Albania.pdf](http://www.irex.org/programs/MSI_EUR/2005/MSI05-Albania.pdf) (accessed 20 June 2007).

questions about the link between these stations' sources of capital on one hand, and their content and editorial independence on the other.

## 4.2 Ownership and cross-ownership

Although foreign ownership is not restricted, the presence of foreign investors has decreased. The media market continues to be unattractive to outside investors because it operates in a small economy, with poor or non-existent infrastructure, and generous space for unfair competition. Julien Roche, a French businessman living in Albania, sold his 33 per cent stake in the commercial TV station TV Klan to Albanian parties in 2005.<sup>77</sup> In January 2008, the German media group Westdeutsche Allgemeine Zeitung (WAZ) expressed interest in investing in Albanian media, but at the moment they are only studying the market.<sup>78</sup>

Only the Law on Digital Broadcasting contains provisions on limiting concentration of ownership with the aim of achieving media pluralism.<sup>79</sup> An entity cannot own more than one licence for a terrestrial digital network. The law also prohibits entities with economic interests or in a decision-making position in a company owning a licence for digital terrestrial broadcasting from having economic interests or being in a decision-making position in another holder of a digital terrestrial broadcasting licence. However, a network operator may obtain a licence for broadcasting a TV programme and vice versa. No operator may take more than 30 per cent of national TV advertising revenue. In general, the legal provisions on ownership from the broadcasting law retain their validity for digital broadcasters as well.

## 4.3 The advertising market

Lack of transparency of ownership and of media funding remain unresolved and controversial problems. Sources of media funding remain unknown due to lack of research in this area and broadcasters' refusal to provide such data. The only official source for this market continues to be the annual budget declarations that operators submit to the KKRT. However, only a small number of broadcasters do that. In 2006, only 39 out of more than 100 broadcasters submitted their annual balance. Outside Tirana, only 30 per cent of operators submitted their balance sheets. Two nationwide commercial TV stations, TV Klan and TV Arberia, also failed to do so.<sup>80</sup>

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<sup>77</sup> KKRT, Department of Jurisdiction and Licences, 13 July 2007.

<sup>78</sup> Aida Cama, "Koncerni gjerman i mediave, WAZ, do të hyjë në tregun shqiptar," (WAZ, German media consortium, will enter Albanian market), in *Tema*, 16 January 2008, p. 2.

<sup>79</sup> *Ibid.*, Art. 13.

<sup>80</sup> KKRT Annual Report 2006, p. 62.

In general, TV operators continue to incur losses. Few of them report any profits. For example, after a loss of ALL 33 million (€270,000) in 2003, Top Channel TV had a profit of ALL 4.5 million (€37,000) and ALL 28 million (€230,000) in 2004 and 2005, respectively.<sup>81</sup> Similarly, after two years in the red, TV Vizion+ had a profit of ALL 7 million (€57,000) in 2005.<sup>82</sup> However, the KKRT stated that an analysis of the financial statements over the past three years revealed significant inconsistencies, which made the regulator suspect some stations of faking their figures or reports.<sup>83</sup>

The question of the transparency of the capital behind the media became even more controversial when Prime Minister Sali Berisha declared on 28 March 2007 that media in Albania were linked to mafia groups, which use the media as a tool to demonise Government members and actions, especially in the battle against corruption.<sup>84</sup> Following this declaration, media editors and owners demanded specific facts and names from Berisha and asked him to provide the prosecuting authorities with the necessary information to start lawsuits.

The Government reacted by excluding media owners from participating in public tenders. The KKRT has signalled in recent years that half the revenues pulled in by the media operators came from “other sources”, meaning the numerous other businesses run by most of the media owners, including construction, which is the most lucrative business in Albania today, or import-export, advertising or Internet services.<sup>85</sup> The current Government therefore proposed to prohibit persons or companies owning shares in both a media company and another company from entering any public tender. According to the current law, shareholders in a radio or television station cannot take part directly or indirectly in public tenders or privatisation of State property.<sup>86</sup>

The Government also decided in 2006 to stop allocating Government advertising and notices to the media and publish them instead in the Bulletin of Official Notices.<sup>87</sup> The allocation of State advertising has never been transparent. On the contrary, without detailed legal provisions on the allocation of State advertising, the Government traded advertising against favourable coverage.<sup>88</sup> There are no exact data on the overall

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<sup>81</sup> *Ibid.*, p. 63.

<sup>82</sup> *Ibid.*

<sup>83</sup> *Ibid.*

<sup>84</sup> Albanian Media Institute Newsletter, available at <http://www.institutemedia.org/pages/news-2007.html#57> (accessed 17 June 2007).

<sup>85</sup> OSI/Albania, pp. 225–228.

<sup>86</sup> Law on broadcasting, Art 7.

<sup>87</sup> Decision on Publication of Official Notices, 29 March 2006, available at <http://www.keshillministrave.al/shqip/qeveria/vendimet/buletini%20i%20njoftimeve.asp> (accessed 29 July 2007) (hereafter Council of Ministers Decision on Bulletin).

<sup>88</sup> OSI/Albania, pp. 225–228.

spending of State companies or bodies on advertising. The only public source for such information was an experimental study carried out by the regulator. It revealed that the State-owned energy company KESH spent US\$560,000 on advertising in 2004, which was more than three times the sum spent three years before. The same study also showed that Albtelekom, the State-owned fixed telephony utility, spent €320,000 on advertising in 2004.<sup>89</sup> These were the only important advertisers that provided information on their expenditure.

The Government's decision to channel State advertising to the official bulletin was an important step towards reducing media dependence on the Government. "This is an important and positive act, even only in its moral aspect, although there are contradictions and the act does not definitely solve the problem of alienation of our media [from the public]."<sup>90</sup> The distinction, for instance, between State advertisements and notices is not entirely clear and leaves room for interpretation. According to the Government's decision, advertisements for State-owned companies and not-for-profit organizations established and supported by the State are not classified as public notices.<sup>91</sup> This could leave room for State-owned entities to continue to place their adverts in the media. Without transparency, it is difficult to assess the impact of the Government's decision on the television sector.

A well-known Albanian editorialist wrote that, "most of the daily newspapers in the country are in a coma while television stations' audience has polarised, pushing most of the peripheral stations out of the market".<sup>92</sup> All data on the advertising market are pure speculation. The only respectable effort in this direction was made by the KKRT, which monitored the advertising in ten TV stations in April and May 2005. According to this study, the amount of advertising and teleshopping accounted for 10 per cent of the total broadcasting time.<sup>93</sup> The law obliges television stations to allot no more than 15 per cent of their daily transmission time, or more than 12 minutes per hour, to advertising. This provision was generally respected by TV operators. Exceptions included TV Klan, which aired advertising for 22 per cent of its broadcasting time.<sup>94</sup>

The study indicated that the approximate value of the entire Albanian TV advertising market hovers around €21 million.<sup>95</sup> Comparing this estimation to the annual

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<sup>89</sup> KKRT, Estimation of Advertising Revenue from Monitoring, April–May 2005, p. 5 (hereafter, KKRT Ad Study).

<sup>90</sup> "Përplekja" (Endeavour), Interview with Fatos Lubonja, *Standard*, 27 May 2006, p. 35. (Note: Lubonja is a media analyst. He has signed editorials in most large newspapers in the country).

<sup>91</sup> Council of Ministers Decision on Bulletin.

<sup>92</sup> Mero Baze, "Përplekja e 'regjimit mediatik' drejt konkurrencës" (The struggle of the "media regime" for competition), *Tema*, p. 1, 23 April 2006.

<sup>93</sup> KKRT Ad Study, p. 2.

<sup>94</sup> KKRT Ad Study, p. 3.

<sup>95</sup> *Ibid.*, p. 5.

financial statements submitted by TV stations, the study concluded that TV operators reported only between 17 and 22 per cent of their advertising revenues.<sup>96</sup> This sparked suspicions of tax evasion.<sup>97</sup> The authors of this study admitted that, as they lacked experience in assessing the advertising market, their figures should be treated with caution.<sup>98</sup> But the tax police took the study seriously and imposed a fine worth €12 million on Top Channel TV in July 2007. The KKRT study was used as a basis for calculating tax evasion on advertising for the years 2002–2005. It helped assume that Top Channel TV had reported only 23 per cent of its revenues for those years.<sup>99</sup>

This fine followed repeated scrutiny of Top Channel TV by the tax police during 2007, when the station took a rather critical stance towards the Government. The owner said that he had expected to be fined, but the level of the fine was totally unreasonable and was meant to silence a critical voice.<sup>100</sup> The tax police's move spurred the media community to issue a common declaration in support of Top Channel TV.<sup>101</sup> An investigation was launched by the Parliamentary Committee on the Media and the General Prosecutor. Following these pressures, the Government apparently reconsidered the fine. The station has not yet paid, and is still negotiating with the authorities. Top Channel TV is a clear example of how the lack of data and systematic monitoring and research of the advertising market, combined with lack of transparency on the part of advertisers, media and the Government, can be misused or abused.

#### 4.4 Editorial standards and independence

In 2005, the Albanian Media Institute started to revise the Code of Ethics for journalists, which was drafted in 1996. The institute began this work as a reaction to the inefficient implementation of the Code and to the need to adjust it to the changes that have affected the media over the past decade. Another reason was the institute's intention to introduce a system of effective self-regulation by the media. The legal amendments aiming to decriminalise defamation and libel are pending in Parliament, and likely to be adopted in the near future.

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<sup>96</sup> *Ibid.*, p. 6.

<sup>97</sup> *Ibid.*, p. 7.

<sup>98</sup> The study's methodology was based on a formula according to which the value of advertising revenue was calculated by multiplying the advertising time with the fixed rates as reported by TV stations. It did not and could not take into account discounts and barter that applied to clients or the length of time of a contract of a TV station with a client. (p. 1).

<sup>99</sup> Press Release of Tax Police, available at <http://www.tatime.gov.al/?fq=info&metod=shfaqart&artID=362> (accessed 25 July 2007).

<sup>100</sup> Dritan Hoxha, Comment at Top Channel TV Roundtable, Tirana, 14 July 2007.

<sup>101</sup> The Declaration is available at [http://www.institutemedia.org/documenta/PRESS\\_DECLARATION\\_dt\[1\].13\\_korrik.doc](http://www.institutemedia.org/documenta/PRESS_DECLARATION_dt[1].13_korrik.doc) (accessed 20 July 2007).

In the revision process, the institute tried to involve all main stakeholders, including media owners, directors and managers, editors, journalists, civil society activists, MPs, media lawyers, etc. The institute completed a new Code of Ethics and a statute of a self-regulation body. In general, journalists, owners and managers agreed in principle to the need for having self-regulation in the sector. It remains to be seen whether they will unite to make it happen.

Except for general editorial rules imposed by editors-in-chief, there are no internal codes of ethics in the television stations.<sup>102</sup> The KKRT has constantly pointed out in its reports that the media must have their own codes of ethics.<sup>103</sup> In addition, quality journalism is difficult to achieve as journalists are very often deprived of their rights. The overwhelming majority of journalists work without contracts due to weak implementation of the Labour Code and the lack of regular supervision of its implementation. A positive step in this respect was the establishment in 2005 of a trade union of journalists with the support of IREX. The union has set up branches in the main towns and negotiated better conditions for journalists with the Ministry of Labour. The two parties signed a memorandum that would enable introduction of a collective agreement in the sector.

However, the union and the media community are aware that this process will take some time because of the scale of the problem. In 2005, about 95 per cent of journalists in Albania worked without contracts or social security.<sup>104</sup> Other journalism associations did not offer any help in this campaign. They seem to exist only on paper. The Chair of one of these organisations stated:

Even though we have 15 years of free press in Albania, there are only a few cases when colleagues of one media outlet raise their voice or protest against the fate of other colleagues who are unjustly fired, censored, or threatened. This is a topic only in the cafés where journalists gather and are never revealed to the public, leading to a situation where nobody talks about a phenomenon that affects everybody.<sup>105</sup>

This situation renders journalists highly vulnerable to the desires and whims of their owners. “They are almost helpless when faced with the arbitrary decisions of owners,

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<sup>102</sup> OSI/Albania, pp. 238–239.

<sup>103</sup> KKRT Annual Report 2006, p. 55.

<sup>104</sup> Union of Albanian Journalists, “Mbrojtja në punë dhe sigurimi social i punonjësve të medias, një domosdoshmëri për shtypin e lirë” (Labour protection and social security of media employees, a must for a free press), p. 6.

<sup>105</sup> Interview with Armand Shkullaku, “Media, transparenca për lajmet brenda saj” (Media, transparency for its own news), *Shqip*, 10 May 2006, p. 12. Shkullaku is the Chair of Association of Albanian Journalists and Editor-in-Chief for news with TV Klan.



who can fire their staff without cause.”<sup>106</sup> This situation has not changed over the past two years and it is unlikely to improve without shedding light on media ownership and their funding. The large number of newspapers and television stations in Albania owe their existence mainly to funding by parallel businesses and to the weak implementation of the law. “From the professional point of view, this parallel funding makes many outlets vulnerable to the pressure or censorship of the businesses that support them, to a greater or lesser extent.”<sup>107</sup>

#### 4.5 Regional and local broadcasting

There are today 68 local television stations, of which 20 are Tirana-based. Most of the advertising spend is pumped into Tirana-based television stations. They have better economic performance and programming than local stations, which find it difficult to survive and produce quality programming. “The media located in the Western plain have had more ample opportunities to benefit from a richer advertising market, which is not the case for the media located in other distant areas.”<sup>108</sup>

Due to economic restraints, local television stations in the country can hardly keep up with the technological development. While most TV stations in Tirana possess rather up-to-date equipment, local stations still operate with old equipment, which affects the quality of their product.

## 5. PROGRAMMING

### 5.1 Output

Without independent monitoring, there are no statistics for annual output by genre, either for commercial or for public broadcasters. The most recent monitoring, which was carried out by the KKRT during one month in long-ago 2003, covered the main stations’ output. Although commercial stations are obliged by law to submit their annual output to the KKRT, they have so far failed either to comply with this requirement or to explain their failure. The regulator has taken no measures against them.

The only data come from TVSH. Some 70 per cent of TVSH’s airtime from April to November 2006 was not produced in-house. The station’s programme framework

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<sup>106</sup> IREX, *Media Sustainability Index 2005 – Albania*, IREX, Washington DC, 2006, p. 14, available on the IREX website at [http://www.irex.org/programs/MSI\\_EUR/2005.asp](http://www.irex.org/programs/MSI_EUR/2005.asp) (accessed on 20 July 2007) (hereafter, IREX, *MSI 2005 – Albania*).

<sup>107</sup> IREX, *MSI 2005 – Albania*, p.12

<sup>108</sup> IREX, *MSI 2006 – Albania*, p. 5.

could not avoid routine and monotony, which hurt its position in the market.<sup>109</sup> With the change of management in the end of 2006, higher quality programmes began to appear. With all these changes, the ratio of self-made programmes is expected to reach 70 per cent of the station's total airtime in 2007.<sup>110</sup> The RTSH Steering Council also promised that more programmes are under review and new programmes covering topics such as social issues, gender balance, culture and health will be launched.<sup>111</sup>

However, the changes in the programme framework are rather attempts to satisfy some minimum requirements than to boost public service standards. The station's annual report bragged about such achievements as increasing the broadcasting time from 17 to 24 hours a day, reinstating weekly sports programmes, opening a new broadcast studio, usage of a mobile studio on election days, etc.<sup>112</sup> The station's current director, Mirela Oktrova, said: "The existence of public radio and television cannot be justified either by entertainment programmes or the free offer [of programming] from EBU, or by the organisation of song contests and the fuss over [Albanian winners'] participation in the Eurovision song contest."<sup>113</sup>

On a more positive note, TVSH organised televised debates with the mayoral candidates during the 2007 local elections, enabling the public to make a more informed choice. On the other hand, TVSH was not able to broadcast a major event like the football World Cup in 2006, whose broadcasting rights were acquired by DigitAlb. TVSH said at the time that it could not afford to buy the rights, but the KKRT replied that the station could have asked for Government aid.<sup>114</sup> They added sarcastically that TVSH management did not insist on this because they were busy negotiating the rights for a locally produced programme, "Kafazi i Arte" (Golden Cage), a local replica of the "Big Brother" reality show format.<sup>115</sup>

Despite the lack of clear data on programme output, it can safely be said that the most important stations, like TV Klan, Top Channel, Vizion+, TV Koha and some thematic news channels like News24 or Alsat have gained more or less loyal followings. They produce news of generally satisfactory standards and various information and entertainment programmes. Information and news have become priorities for both print and electronic media, according to various observers.<sup>116</sup> An exception is the nationwide commercial station, TVA, which following numerous changes of

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<sup>109</sup> RTSH Annual Report 2006, p. 3.

<sup>110</sup> RTSH Annual Report 2006, p. 5.

<sup>111</sup> RTSH Annual Report 2006, p.5.

<sup>112</sup> RTSH Annual Report 2006, p. 4.

<sup>113</sup> Mirela Oktrova, "'Lehja' kundër demokracisë dhe interesave të publikut" ("Barking" at democracy and public interests), *Shekulli*, 4 September 2006, p. 23.

<sup>114</sup> KKRT Annual Report 2006, p. 52.

<sup>115</sup> *Ibid.*

<sup>116</sup> IREX, *MSI 2006 – Albania*, p. 9.

ownership in 2006, could hardly fulfil its obligations as a nationwide channel. They stopped airing newscasts completely in March and April 2006.<sup>117</sup> As the station could not fulfil for most of 2006 the programme requirements imposed by its licence contract, the KKRT decided to reduce TVA's licence by one year and withdrew it in October 2007. The station appealed the decision. The two parties took the dispute to the court.<sup>118</sup>

Some of the news and debates on relevant, often political, issues are believed to have a healthy audience and have become emblematic for the TV stations airing them. In addition to news bulletins, some of the most popular programmes are "Opinion" on TV Klan, "Shqip" (Albanian) on Top Channel, "Logos" and "60 minuta" (60 minutes) on TV Koha. They are weekly programmes featuring interviews or debates on a topical issue. Another surprisingly popular programme is "Fiks fare" (Just like that), a daily satirical magazine built on solid investigative reporting. Some entertainment programmes and game shows are also very popular. They include "Portokalli" (Orange) and "Top Show" on Top Channel, "Kutia e fundit" (Last box) on TV Klan and "Bypass" on Vizion+. There is a growing tendency among television stations to focus on programmes of a more social nature, attempting to cover more everyday life and human interest stories. These programmes include "Jëtë në kërkim" (In search of lives) on News24 TV, "Njerëz të humbur" (Missing people), "Femra" (Women) and "S.O.S." on Vizion+.

## 5.2 General provisions on news

Several provisions of the Law on Radio and Television deal with programming content, applying to both public and private broadcasters. They concern editorial independence, censorship, the right to information and other human rights and freedoms.<sup>119</sup> But although the fundamental principles of impartial and accurate information are guaranteed by law, there are no instruments or bodies to monitor their implementation. The KKRT monitors the main newscasts of the nationwide public and private TV stations, but this effort only consists of quantitative measuring of the percentage dedicated to coverage of political parties and figures.

Television stations have made significant progress in defining themselves through their newscasts, which have marked the greatest improvement in programming of all TV stations.<sup>120</sup> Nevertheless, information is neither impartial nor fair. There is almost no media outlet without vested economic or political interests and therefore, professional standards are applied only insofar as these interests allow. The news agenda is very close

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<sup>117</sup> KKRT Annual Report 2006, p. 54.

<sup>118</sup> Decision on TVA in KKRT Annual Report 2006, p. 25.

<sup>119</sup> OSI/Albania, p. 234

<sup>120</sup> KKRT Annual Report 2006, p. 47.

to the agenda of the Government or politics in general, or to that of the TV management and its cronies.<sup>121</sup> Newscasts choose clips that fit the interests of the operator and not the public interest.<sup>122</sup>

The Electoral Code also imposes requirements of accuracy, fairness and balance on all TV stations.<sup>123</sup> The public service broadcaster has additional responsibilities, such as granting free time to every political party taking part in elections. The latest test for respecting these rules was the local elections of February 2007. The main TV stations passed this test rather successfully. TVSH allocated 28 per cent of the news coverage to the Democratic Party and 29 per cent to the Socialist Party. Similar coverage was found on the other large stations such as Vizion+, News24, and TVA. An exception was TV Klan, which devoted more time to the Government than any other station. TV Klan's representatives argued that they were merely covering the work of State officials. However, these officials were featured during the electoral campaign. Although these campaigns were considered balanced and fair in terms of coverage of political parties, during the pre-campaign periods, all TV stations favoured one party over others.<sup>124</sup>

### 5.3 General programme production guidelines

The Law on Radio and Television sets some general obligations for all television stations, pertaining mainly to human dignity, respect for law, and human rights.<sup>125</sup> However, these provisions are rather loose and general and have not been transformed into more detailed rules or regulations by the KKRT. These general principles have been generally upheld. The only problems were related to pornography, which is totally banned from broadcasting. There are no pornographic programmes on terrestrial analogue television stations. But DigitAlb hosts one channel airing pornography throughout the entire day in an encrypted form, and two pornographic programmes starting close to midnight.

### 5.4 Quotas

There are no special quotas for languages or minority group representation. The public service TV station and some of the commercial channels occasionally air programmes

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<sup>121</sup> Research was carried out in the framework of "TV Primetime domestic news – monitoring and analysis of TV news programs in 10 South-Eastern European countries", published in Media Plan Institute, *Indicator of Public Interest*, Sarajevo, 2007.

<sup>122</sup> KKRT Annual Report 2006, p. 54.

<sup>123</sup> Electoral Code, Art. 136, art. 140, available at <http://www.osce.org/item/14076.html?html=1> (accessed 10 July 2007).

<sup>124</sup> OSCE/ODIHR report on elections of 18 February 2007, available at <http://www.osce.org/item/24859.html?html=1> (accessed on 12 July 2007).

<sup>125</sup> OSI/Albania, pp. 235–236.

for national minorities. In recent years, the Albanian Media Institute has engaged in co-ordination of projects of production of radio and TV programmes on ethnic and linguistic minorities in the country and articles on such issues published in the print media.

Media specialising in minority issues struggle to survive. Radio Prespa, for example, set up in 2003 in the border area with the Republic of Macedonia and airing programmes in Macedonian, does not function regularly due to financial constraints. Radio stations for the Greek minority in the south of the country are in the same situation. All these outlets are individual initiatives; the State does not subsidise minority media. However, there are no legal obstacles to granting broadcast licences for minority radio or television stations. In fact, the KKRT granted a TV and a radio licence to the radio/TV outlet Armonia, a project for the Greek minority, the largest ethnic minority in the country. However, the station lacks financial power and is likely to face difficulties. They are not on air at the moment.<sup>126</sup>

The only content-related quota imposed by law on local licensees is to have non-commercial and local information programmes on at least 15 per cent of their weekly programming. The law does not define “non-commercial”. According to the 2003 amendments, nationwide licensees must devote at least 15 per cent of their broadcasting time to their own programmes and at least 30 per cent to programmes produced in Albania. Television stations generally meet this quota.<sup>127</sup> The law also imposes quotas on advertising, forbidding TV stations to air advertising on more than 15 per cent of their daily transmission time, or more than 12 minutes per hour. Although Albania, as a non-EU member, is not obliged to comply with the European legislation, many of these quotas stem from the European Convention on Transfrontier Television (ECTT) and its Additional Protocol, which Albania ratified in 1999. On the other hand, Albanian legislation does not require broadcasters to devote the majority of their airtime to European works. The law on digitalisation stated that TV stations should progressively comply with the obligation of broadcasting European programmes for 50 per cent of their airtime.

## 5.5 Obligations on PSB

Apart from the general production guidelines, the Law on Radio and Television obliges both public and private broadcasters to carry certain content free of charge. This includes programmes of high interest to the general public such as announcements on national health, public order or national emergencies. The law also requires RTSH to broadcast free of charge religious services or ceremonies held on official religious holidays and sessions of Parliament. The Law on Radio and Television imposes additional obligations on RTSH. Its programmes should be of high quality, reflect the

<sup>126</sup> KKRT, Annual Report 2006, p. 25.

<sup>127</sup> KKRT, Annual Report 2006, p. 47.

variety of Albanian life and serve all groups of society, including national minorities. Coverage of national and international news should be comprehensive and impartial. RTSH is forbidden to broadcast political or religious propaganda.

Despite these obligations, the public service broadcaster is far from fulfilling its public mission. "It is paradoxical to see how the public interest is the first one to be neglected by a television called 'public'. The newscasts start with news on the activities of the Government and political parties, neglecting the real problems that concern the citizens."<sup>128</sup> The station claims to have made significant progress, and that its alleged lack of competitiveness is a lie spread by commercial rivals.<sup>129</sup> But the general opinion is that commercial stations are dominant. "Commercial televisions are killing the public television and absorbing all the audience the same way supermarkets are killing the grocery stores and kiosks from communism by absorbing all the buyers."<sup>130</sup>

## 5.6 Obligations on commercial broadcasters

There are no detailed programme obligations on commercial broadcasters. The only legal provisions pertain to the duration of broadcasting and the frequency of newscasts. National television stations must broadcast at least six hours, and local stations at least four hours a day. Nationwide television stations must air original news programmes every day. Commercial television stations are required to broadcast messages and information of great public interest free of charge, in accordance with the relevant regulation drafted by the KKRT, or at the request of local Government bodies. Such information usually included short communications of particular interest to the public, especially in emergency situations, such as natural disasters, or on issues such as health and safety, and public order. In general, there have been no problems with the observation of this provision.

## 6. CONCLUSIONS

Television, still the most influential of Albanian media, has gone through an era of changes. Important, albeit controversial, legal amendments were introduced, changing the composition of the regulatory authorities. The structure, based on a formula of balanced political representation, was turned into one including civil society, academia and professionals. These moves were officially intended to reduce political influence on the regulator, but some of the regulator's latest actions were seen as politically biased.

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<sup>128</sup> IREX, *MSI 2006 – Albania*, p. 10.

<sup>129</sup> RTSH Annual Report 2006, p. 3.

<sup>130</sup> IREX, *MSI 2006 – Albania*, p. 6.

Moreover, the regulator failed to achieve full membership, an indication that its appointment mechanism does not work smoothly.

The regulator will soon face a difficult test: allocation of digital licences. Like other laws adopted over the past three years, the Law on Digital Broadcasting was prepared by the Government without consulting the relevant stakeholders, which casts serious doubt on the Government's intentions and the consequences of this law on Albanian broadcasting. The implementation of this law raises serious questions about the future of the digital platform operator DigitAlb, which has established itself after three years as a strong player with a substantial customer base. The KKRT's authority and the independence in the licensing process, as well as the stance of the public service broadcaster towards this process, will be of much importance.

RTSH faces the formidable task of challenging the growth of DigitAlb, which will not be easy, especially after its own poor economic performance in recent years, reduced State funding and incomplete reform. RTSH's popularity has not improved. Its poor management and backwardness compared with the commercial broadcasters, coupled with the general view that RTSH is politically controlled, are the broadcasters' main problems. The station is far from fulfilling its public mission. It is hoped that the station's new management will draft a coherent strategy and start a sustained reform. However, the reform of RTSH will be painful and therefore, the station will need significant assistance in managing to achieve its mission.

Professional, good quality output is increasing. However, the market remains overcrowded and despite the fuss over the sources of funding the media, no concrete measures in this respect have been taken. Transparency over the sources of capital behind the media is desperately needed in a country where journalists, lacking working contracts and rights, often fear to risk provoking the owners by writing independently. Media organisations have made numerous attempts to raise awareness on the codes of ethics among journalists, but effective self-regulation has yet to start. The shortage of market research or any other data seriously impedes assessments of the condition of the Albanian media.

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