

REPORT

ON POSSIBLE SOLUTIONS TO ENSURE THE INDEPENDENCE AND SUSTAINABILITY OF THE MEDIA INFORMATION AGENCY (MIA)

Sandra Bašić Hrvatinić and Snežana Trpevska

REPORT

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of the Media Information Agency (MIA)**

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I ASSESSMENT of the current legal status, means of management and financing of the Media Information Agency (MIA)

Snežana Trpevska

1. Introduction

This assessment is an initial document which aims to describe the current legal status of the Media Information Agency (MIA) and to identify the shortcomings and challenges of the legal model in the aspect of the organization's institutional autonomy and editorial independence. The findings of the assessment should serve in determining the possible directions for the legal transformation of MIA into an independent and autonomous public information platform.

This assessment is conducted as part of the project titled "Promotion of Journalist Safety, Professional Standards and Media Sustainability," implemented by the OSCE Mission to Skopje.

2. Legal Act Regulating the Activity of MIA

2.1. First Legal Act – The Decision of the Assembly in 1992

The first act regulating the establishment and activity of MIA (then termed: Macedonian Informative Agency), after the independence, is the Decision of the Assembly of RM which was adopted on 18 February 1992¹.

According to this act, the status and activity of MIA were regulated in the following way:

- *Legal status and activity:* MIA is founded as a public enterprise, with a main purpose to provide “complete, timely and objective information to the citizens, as well as information to the international public about the activities of the republican authorities and other entities of the Republic.”
- *Management bodies:* the main management body, according to Article 6 of the Decision, is a council of nine members, of which six are appointed by the Assembly and three are elected from among the employees. The Council adopts the Statute (to which the Assembly gives its consent), proposes medium and long-term plans to the Assembly, it appoints and dismisses the director and the editor-in-chief, determines the price of the services provided by MIA and performs other tasks. The Director and Chief Editor are selected by the Council on the basis of a competition, with the Assembly’s consent.
- *Means of financing:* the funds for establishment and performance are procured from the State Budget, but additional funds for conducting activities and for technical-technological development can also be procured from product sales and market services.

Note: This decision by the Assembly was not realised in practice due to political disagreements between the Government and the Opposition; the establishment and operation of the Agency were postponed for the next five years. In the meantime, with the Government’s Decision in May 1992, agency work was done by the Macedonian Press Bureau (MPB) to complete “informative-promotional work and tasks abroad.”² In 1997, the Government of RM decided to implement the Assembly’s

¹ Official Gazette of RM, No.10/92 from 26th February, 1992, Pg.112. Available at:
<https://www.slvesnik.com.mk/Issues/A93D0D03476F4CE0867C35C941E417C6.pdf>

² Official Gazette of PM No.42/92 from 14th July, 1992, Pg.1. Available at:
<https://www.slvesnik.com.mk/Issues/95D1A612901A45CDA36AF25FAB031A7B.pdf>

Decision, by assuming the founding rights of the PE Macedonian Informative Agency³. On 1 December 1997, a Decision⁴ to annul the decision regarding the establishment of a Macedonian Press Bureau was made, while on 2 February 1998, a Decision was made to approve the Statute of the PE Macedonian Informative Agency⁵.

2.2. The Government's Decision for the Transformation of MIA in 2006

In April 2006, by a Decision of the Government of RM⁶, the public enterprise MIA was transformed into a state-owned joint-stock company, with the official title "State-Owned Joint-Stock Company Macedonian Informative Agency AD – Skopje," or the abbreviated name, AD "MIA" – Skopje.

According to this Decision, the status and activity of AD MIA are regulated in the following way:

- *Legal status and activity:* MIA is established (according to the Law on Commercial Companies) as a joint-stock company under complete state ownership, with a main objective that mirrors the Assembly's Decision from 1992, which is to provide: "complete, timely and objective information to the citizens, as well as informing the international public about the activities of the republican authorities and other entities of the Republic." There is an added policy for predominant activity – activities of news agencies (code 92.40, according to the classification of activities).
- *Legal continuity:* Article 7 establishes that the primary capital of AD MIA are the assets, equipment and property of the previous PE Macedonian Informative Agency, while Article 12 states that the capital, assets and employees, as well as the rights and obligations related to the work of PE MIA, will be transferred to AD MIA – Skopje.

³ In the archive of the Official Gazette of RM, which is open to the public, there cannot be found a special Decision by the Government for the formation of a PE Macedonian Informative Agency, brought in 1997.

⁴ Official Gazette of RM, No.62/97 from 9th December, 1997, Pg.2723. Available at: <https://www.slvesnik.com.mk/Issues/55E997B75DBD4E8BB7A1358CF1C65EA5.pdf>

⁵ Official Gazette of PM No.7/1998 from 10th February, 1998, Pg.360. Available at: <https://www.slvesnik.com.mk/Issues/850BBFECDDC6494D976CF4942F6D4E0F.pdf>

⁶ Official Gazette of PM No.53/06 from 24th April, 2006. Available at: <https://www.slvesnik.com.mk/Issues/F756271797DCA04F877384F2E223C61F.pdf>

- *Management bodies:* MIA is governed by a Supervisory Board and Management Board. The Supervisory Board is composed of five members appointed by the Government of RM, in the capacity of a Shareholder's Assembly (Article 10). It is also prescribed that "one quarter of the members of the Supervisory Board are independent members", but the conditions which need to be met by the candidates for members of the Supervisory Board are not specified, nor the conflict of interest. The obligations of the Supervisory Board are not described, apart from its role in choosing the members of the Management Board. The Management Board consists of five members. Its obligations are also not specified, apart from its role in overseeing the work of the company.
- *Means of financing:* there are no policies which regulate the means of financing. MIA is financed by the Budget of RM, from the means intended for the Service for General and Common Affairs of the Government of RM, item 461 – subsidies for public enterprises.

2.3. The Statute of AD MIA from 2006 and Subsequent Changes

The Government's Decision from 2006 contains a policy which decrees that MIA adopts a Statute, but it is not explicitly stated which body adopts the Statute. However, according to Article 383, Paragraph 1 from the Law on Commercial Companies, this act is adopted by the Government of RM. All other inquiries which are not regulated by the Decision are regulated by this act which was also adopted in 2006⁷ and then altered with the decisions in 2007, 2013, 2014, 2015 and 2019⁸.

With the Statute, the legal status and activity of AD MIA are regulated in the following way:

- *Legal status and activity:* the policy from the Decision concerning MIA's establishment as a state-owned joint-stock company, which performs the activity of news agencies (code 92.40, according to the classification of activities) is once again mentioned.
- *Primary capital and nominal value of shares:* Article 8 from the Statute establishes that the primary capital of AD MIA is 60,659,40 Euro or 3.730.600,00 Denars. The primary capital is divided to 60.659 ordinary shares,

⁷ Official Gazette of No.53/06 from 24th April, 2006. Available at: <https://www.slvesnik.com.mk/Issues/F756271797DCA04F877384F2E223C61F.pdf>

⁸ The edited text of the Statute is published in the Official Gazette of RM No.125/19 from 19.06.2019. Available at: <https://www.slvesnik.com.mk/Issues/c30adebc3a6048ffa8673fd45b8b64a6.pdf>

with a nominal value of 1 Euro = 61,5 Denars by share. In accordance with Article 9, a Fund is established from which the employees can gain shares for free or by a decreed price which cost one tenth of the primary capital. The organisation and the governing of the Fund, as well as the distribution of assets intended for shares are regulated in accordance with the act of the Assembly of AD MIA.

- *The Assembly of AD MIA*: the rights and obligations of the company's Assembly are carried out by the Government of RM. The responsibilities of the Assembly determined by Article 383, Paragraph 1 from the Law on Commercial Companies are repeated in the Statute of MIA: deciding on Statute changes; approving the final account, financial and annual reports; deciding on the distribution of profit; electing and dismissing members of the Supervisory Board; adopting a Programme for Acquisition of Employee Shares and a Decision on Allocation Criteria; issuing shares intended for the fund; approving the act on the amount of points needed for estimating employee salaries; and other responsibilities.
- *Management Bodies*: the policies from the Decision in regard to the government of MIA by a Supervisory and Management Board are mentioned once again, but other issues are also edited.
 - The Supervisory Board is composed of five members with four-year terms who are elected by the company's Assembly, in other words, the Government of RM, in the capacity of a Shareholder's Assembly. Two members of the Supervisory Board are independent members; however, the conditions that the candidates need to meet are not precise in the Statute, nor is the conflict of interest. It is only added that "during the election process for members of the Supervisory Board, it is denoted which members are independent." The responsibilities of the Supervisory Board are: electing members of the Management Board, supervising operations, inspecting the Company's books and documents, and the property, especially the Company's treasury and securities.
 - The Management Board is composed of five members, each with a four-year term. They are chosen by the Supervisory Board, through public voting, but neither the conditions that the candidates must fulfill, nor the conflict of interest are specified. Article 21 and 22 of the Statute detail the Management Board's responsibilities, including: adopting a

Programme for Work and Development, an Annual Work Plan and Financial Plan, preparing the acts and decisions adopted by the Assembly, preparing and submitting quarterly financial reports to the Supervisory Board and to the Government; appointing managers who will govern the operations of the Company in the capacity of an Assembly, deciding on the internal organisation of the Company and a series of other responsibilities.

- The Statute contains policies (Article 28) regarding the responsibilities of the General Director, but this act does not regulate the terms of his election, the criteria that need to be met, or the conflict of interest.
- *Means of financing:* in the Statute, as in the Decision, there are no policies by which the means of financing is regulated. MIA is financed by the Budget of RM, from the means intended for the Service for General and Common Affairs of the Government of RM, item 461 – subsidies for public enterprises.

3. Conclusions from the assessment and from the round table with representatives of relevant institutions

For the needs of this assessment, in the first phase, there was an analysis of other published documents and articles on this topic; in addition, there were four (4) interviews conducted with experts and representatives of MIA and other organizations.

On 31 March 2023 in Veles, a round table discussion was organized by the OSCE Mission in Skopje on the topic "Solutions for the independence and sustainability of the Media Information Agency (MIA)".⁹ At the round table, the findings of the Assessment of the current legal status of MIA in terms of its institutional autonomy and editorial independence were presented, as well as the Comparative insights from the way of legal regulation of news-information agencies in several countries in the region.

Based on the findings of the assessment, the conducted interviews and the discussion that took place at the round table held in Veles, the following conclusions were drawn:

- There is no doubt that the current legal arrangement of MIA does not ensure its institutional autonomy in performing the activity for which it was founded. The fact that MIA is organized according to the model of a joint-stock company in full state ownership, puts it in a position of complete dependence on the decisions of the Government, which, in accordance with the Law on Commercial Companies, exercises the rights and obligations of the Assembly of AD MIA. Namely, in accordance with Article 383 paragraph 1 of the Law on Commercial Companies, the Government decides on the adoption of key documents regulating its organizational structure and operations, on the selection of management bodies, on the status and remuneration of employees and on other important issues in operation of MIA. In the other countries' legal models and experiences presented, the operation of the news-information agency that performs activities of public interest is regulated by a

⁹ The following institutions, associations and organizations were represented at the debate moderated by the international and the local media expert: Media Information Agency (MIA), Parliament of Republic of North Macedonia, Government of Republic of North Macedonia, Ministry of Justice, Ministry of Finance, State Commission for Prevention of Corruption, Agency for Audio and Audiovisual Media services, Association of Journalists (AJM), Independent Trade Union of Journalists and Media Workers.

special law, which ensures complete independence in the performance of the activity from the Government or any other state authority.

- MIA does not even have financial independence, because the issue of its financing has not been regulated at all. The Government's decision from 2006 does not contain any provisions establishing independent, stable and long-term financing of MIA. MIA is financed predominantly from the RNM Budget, from the funds planned for the Service for General and Common Affairs of the Government, in the Subsidies for Public Enterprises item. In practice, this means that the decision on the amount of funds MIA will receive each year depends on the Government's discretion. Comparative experiences from other countries in the region show that the agencies are predominantly financed from the budget, with the possibility of obtaining additional income from the sale of products and services, but this is clearly regulated in the legal act, while ensuring sustainable, independent and predictable financing in the longer term deadline. Possible financing models are: determination of a certain percentage of funds in the Budget or conclusion of a (multi-year) contract between the agency and the Government based on a well-founded assessment of the necessary budget funds for the provision of the public service performed by the agency.
- The selection procedure of the members of the management bodies of MIA is not independent nor transparent. Neither the Decision of the Government nor the Statute of the MIA contain provisions that mandate an independent and transparent selection procedure for the management bodies of the MIA, does not regulate the issue of conflict of interests and does not contain criteria for the selection of independent and expert persons in the bodies of the MIA management. The procedure and criteria for the selection of the MIA Director have not been regulated either. The laws governing the operation of similar bodies in neighboring countries contain detailed provisions: that the management and management bodies of the agency are selected on the basis of a public competition, on the criteria that must be met by candidates, on the issue of conflict of interest, as well as the conditions under which the members of these bodies can be dismissed.
- The status of journalists and other employees in MIA is not clearly regulated. This is also the conclusion of the State Commission for the Prevention of Corruption, which, acting on a report of corruption submitted by an unknown

perpetrator, made a Decision to the Government of RSM to submit an initiative to regulate the legal status of MIA with a special law, in order to overcome the identified legal gaps in relation to with the status of the employees and the competences of its management and supervision bodies. In other countries of the region, the status of journalists and other employees of news-information agencies is also regulated by a separate law, emphasizing that the agency independently regulates and decides on issues of employment of workers and their rights and duties.

- The current legal acts do not regulate MIA's obligations regarding the public access and transparency in operations and the rules arising from the Law on State Aid in cases where the legal entity that is financed from the Budget also performs commercial activity.

II COMPARATIVE ANALYSIS of legal status regulation of news agencies

Sandra Bašić Hrvatin

The comparative analysis is based on an overview of the legal status of news agencies in various European countries as well as on the selection of concrete models to be used for the regulation of the status of MIA. Some of the news agencies were established by law ordering their enactment of public service in the field of information, while others were created as consortium merging numerous media organizations within a specific country. Some are state agencies (in the sense of ensuring a vital source of information within the information chain for the citizens as well as for the media itself), and still others are remnant agencies, commercial enterprises selling their services on the free market.

There is no “universal model” of legislative, organizational and financial management of a media/press agency on a European level that could be applied for the regulation of the status of the MIA. **APA - Austria Presse Agentur**¹⁰ is owned by Austrian newspapers and the national public broadcaster ORF. German **DPA - Deutsche Presse-Agentur**¹¹ is company with limited liability (GmbH). DPA customers are offered services for a flat monthly fee (graded according to the size of the medium)¹². Italian **Agenzia ANSA IT** (The Agenzia Nazionale Stampa Associata)¹³ is a not-for-profit cooperative, whose members and owners are 36 leading news organizations in Italy. Its mission is the distribution of fair and objective news reporting. French **AFP-Agence France Presse**¹⁴ is a private company with special status. AFP's statute was changed in 2015 to bring it into line with EU legislation through Law No. 2015-433 of 17 April 2015. The State's financing of AFP was thus modified and structured into two components: financial compensation for the Agency's missions of general interest and commercial subscriptions from the State. **Reuters**¹⁵ is a global leader in

10 Please see: <https://apa.at>

11 Please see: <https://www.dpa.com/de>

12 Please see: <https://www.dpa.com/de/ueber-die-dpa>

13 Please see: <https://www.ansa.it>

14 Please see: <https://www.afp.com/fr/plateforme-de-linfo>

15 Please see: <https://www.reuters.com>

multimedia news production and distribution. Reuters is an independent business, owned by Thomson Reuters Corp.

It is clear that there are six management/regulatory models represented by six of the biggest European press (media) agencies that are predominantly a direct result of conscious national media policies. It is impossible to replicate and implement any of these models to the media environment of North Macedonia.

The decision to select two specific forms of regulation (using the examples of **Slovenian Press Agency - STA**¹⁶ and **Croatian News Agency - Hina**¹⁷, is rooted in the fact that these countries are members of the EU and have therefore incorporated into their respective domestic legal orders the key documents regulating the legal status of the media and media services. We are adding the example of **Bulgarian Press Agency (BTA)**¹⁸ for the purpose of comparison, since we highly discourage the implementation of this one-faceted model (the agency is managed by a General Manager without any public control) as a model of management to be applied in North Macedonia.

Adding to that the common (similar) background in legal order, which is a relevant comparative framework for the legislators in North Macedonia. All of these countries share similar media legislation, media market size, audience structure and user behaviour and therefore have commonalities in the challenges and issues they are facing.

There is a common prevalence of political instrumentalization of the media by the government in all three of the countries; for example, in the period between 2021 and 2022 the STA was subjected to substantial political pressure, which led to the suspension of the legally-binding state funding, thus forcing the STA to solve its precarious situation by seeking financial support from the public as well as professional journalist associations. Additionally, factors contributing to the political instrumentalization of the media are the unstable financial environment (a considerable share of income to the media stems comes from state-advertising or advertising companies partially or fully owned by the state); persistent attempts to

¹⁶ Please see: <https://english.sta.si/>

¹⁷ Please see: <https://www.hina.hr/english>

¹⁸ Please see: <https://www.bta.bg/en>

limit media and journalist autonomy; and the relatively low market power of the entire media sector.

Since it is the aim of this analysis to discuss concrete examples of regulation of the press agencies within the three selected countries, it is crucial to shift the focus towards the specific ways that allow for the effective mechanisms, determined by separate legislation, to ensure the independence of the MIA, the legislation must include the following elements:

- General provisions referring to the exact determination of the concepts of public service and ensuring impartial and credible journalist labour rooted in professional journalism standards;
- Specification of the types of ownership and management rights (be it a majority state-owned company or a public company);
- Determination of the basic premises of the transparency of operation (externally) and ensuring the editorial and journalist autonomy (internally);
- Separate chapter of the law aimed at determining the internal organizational structure of the agency, specifically instating the management and supervisory bodies;
- Determination of the scope of the public service that is receiving public funding and distinguish between the public and commercial activities of the agency. The ratio of public funding is calculated based on the valuation of functions in the public service domain that are bestowed upon the agency by law;
- Special attention must be given to the protection of employees' rights, specifically journalists.

Analysis is developed starting with the presentation of key mechanisms that ensure the news agencies' independence, followed by the presentation of concrete solutions stemming from the legislation in the three selected countries. Ensuring media and journalist independence is of vital importance to safeguard the basic human right of freedom of expression, which is a constitutional right in all three of the countries.

The news (media) agency's independence must be protected on three levels: *institutional, organizational and financial*.

The institutional independence is usually ensured by specific legislation which determines the rights and obligations of the agency. It is crucial to ensure independence of the agency's work from political and economic influence (denominate the meaning of public service and public utility in the field of media) and determine a network of institutional safeguards for the management, direction and supervision of the agency's work. These safeguards must include specifically determined conditions for the appointing and dismissal of the management, administrative and supervisory bodies (prohibition of conflict of interest, clientelism practices and systemic corruption) and a clear assurance by the founder (the parliament or government) of the institutional autonomy of the agency. This refers to a commitment, determined by the legislation, to ensure the prohibition of any kind of influence over the management, administration and supervision of the agency, specifically a total refusal of influence over editorial independence.

Organization independence is ensured with specific provisions within the legislation that preserve journalist and editorial autonomy, the protection of professional standards of the journalist profession and the influence of journalists over crucial decisions of appointed of editors.

Financial independence is ensured by anticipated, sufficient and transparent allocation of funds for the enactment of public service, that must not be tied to the political cycles within the society and must ensure the diversity in financing resources (instilling a clear distinction between the use of public and commercial resources), facilitating financial accountability and transparency.

In the next section we will focus on a comparative analysis of the legal status regulation of the Slovenian press agency (*Slovenska tiskovna agencija*, in continuation: STA) and the Croatian reporting news agency (*Hrvatska izvještajno novinarska agencija*, in continuation: Hina) following the three axis of analysis previously mentioned. The analysis refers to the Act on the Slovenian Press Agency (in continuation: Law on STA; *Zakon o STA*)¹⁹ and Law on Croatian Reporting News agency (in continuation: Law on Hina; *Zakon o Hina*)²⁰. We are mentioning the specific case of the legislative regulation

19 *Zakon o Slovenski tiskovni agenciji (Law on Slovenian Press Agency)*, available at:

<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5868https>, Agency's website: www.sta.si.

20 *Zakon o Hrvatskoj izvještajnoj novinskoj agenciji (Law on Croatian News Agency)* available at:

<https://www.zakon.hr/z/1263/Zakon-o-Hrvatskoj-izvještajnoj-novinskoj-agenciji>, Agency's website: www.hina.hr.

of the Bulgarian News Agency (*Blgarska telegrafna agencia*, in continuation BTA) as determined by the BTA Act (in continuation, BTA Act; *Zakon za Blgarskata telegrafna agencia*)²¹. Some of the solutions are accompanied by concrete articles of the respective legislation.

21 *Zakon za Blgarskata Telegrafna Agencia (BTA Act)*, available at: [Lex.bg](http://lex.bg) - [Закони, правилници, конституция, кодекси, държавен вестник, правилници по прилагане](http://lex.bg), Agency's website: www.bta.bg

1. Institutional independence

Both countries (Slovenia and Croatia) have had their news agencies established by law (Act). It should be noted that the STA is organized as a limited liability company whose sole founder and associate is the Republic of Slovenia. The associate rights are exercised by the government in the name of the Republic of Slovenia. As opposed to STA, Hina is a legal entity whose legal status is that of a public institution. Its founder is the Republic of Croatia. The founder has a hundred percent share in the resources required for the functioning of Hina. The Law on STA (Article 3) clearly states that obligations of the founder include the assurance of the institutional autonomy and editorial independence of STA as well as the appropriate funding of the wholesome and undisturbed activity of the public service, based on the yearly business plan of the STA.

The BTA Act defines the agency as a national independent institute for information that is entirely financed by the state budget (Article 1, para 2). BTA acts in the best interest of the public and of the State and conforms to the provisions of the Constitution of the Republic of Bulgaria and the Bulgarian News Agency Act, exercises discretion in determining the content of its newsgathering and news distribution operation and assumes responsibility for this operation. BTA is independent in the implementation of its operation and is accountable to the National Assembly.

Both of the economic models (limited company and public company) have their pros and cons. The advantage of a limited company is greater flexibility and independence of the general management when it comes to determining the recurring policies of the agency (e.g. the personnel policy), while a public company puts more emphasis on granting public interest for all consumers under the same conditions. The choice of the economic model is a matter of agreement at the level of national politics. The crucial issue is for the legislation to ensure an airtight division between state institutions and editorial autonomy. General management (the supervisory or managerial bodies) should not be permitted to influence editorial policies, which are exclusively under the domain of the journalist collective. This is not guaranteed in the case of BTA.

The Law on Hina determines in Article 5 that the agency operates according to the principles of independent, impartial and professional news-agency reporting. Hina should not be under any kind of influence that would jeopardize the accuracy,

impartiality and credibility of its information. Hina must not be legally or actually under the ownership or other interest control of an ideological, political or economic group. There is a similar provision in the Law on STA (Article 7), stating that the STA cannot under any circumstance consider influences and perspectives that could affect the accuracy, impartiality and credibility of information. STA must not, legally or actually, become dependent on any ideological, political or economic group.

Article 4 of the Law on STA defines the performance of public service as the daily creation, preparation, archiving and transmission of news containing crucial information about the event and about what is happening in the Republic of Slovenia in the Slovenian language, covering the following fields of interest: politics, economy, culture, education, healthcare, chronicle, sports, world events, science, volunteering and non-governmental organizations, entertainment and other content. The same requisites apply for the public service in the English language. The framework of public service of STA also includes the publishing of texts of radio news (prepared to be broadcast on the radio) as well as copy-righted photography of crucial events. Additionally, it requires the provision of content on the activities of the officially recognized Italian and Hungarian minorities, content on the activities of the Roma ethnic community, content for other national and ethnic minorities in the Republic of Slovenia, content for Slovenian minorities in other countries, content for Slovenian expatriates around the globe, and finally, as part of the daily English public service, content for foreign public in the Republic of Slovenia. The content within the frame of public service is broadcast free of charge through its website (www.sta.si) and is accessible to all under the same conditions.

The Law on Hina, Article 3, is sparing with words when it comes to determining the activities of Hina, limiting them to collecting and disseminating complete factual and objective news-agency information about events in the Republic of Croatia and the world for the needs of the media and other participants of social, political, cultural and economic life.

Organizational independence is ensured on two levels: on the level of *internal managerial independence* and on the level of *internal editorial and journalist independence*.

An important contributing factor for ensuring organization independence is the regulation of the form of managing, supervision and administration of the agency. Both agencies have a two-faceted form of management: the STA has a Supervisory

Board and a general manager and Hina has a Governing council and a principal (General Manager).

It is our opinion that the Law on BTA does not ensure managerial independence since the entire management of BTA is intertwined with the government, apart from some declarative commitment to supposed principals (see Article 4) that the BTA is presumed to be following. BTA is headed and represented by a General Manager that is appointed and relieved of their duty by the parliament (Article 10). The symbolic gesture of the General Manager being put on oath in the parliament in front of the MPs is significant. The text of the oath is included in the Law, Article 12 (paragraph 2).

	STA	Hina
Supervision	<p>Supervisory Board is comprised of five members.</p> <p>The National assembly appoints four members of the Supervisory Board following the government's proposal: each member is chosen from different fields of expertise (media, economy-finance, law, informatics). One of the members of the Supervisory Board is elected by the works council based on the legislation that regulates the participation of workers (employees) in the management. The National Assembly then appoints the members of the Supervisory Board following a process of election (selection by majority vote among all the members of the parliament); each candidate is voted on individually.</p>	<p>The governing council is comprised of a president, vice-president and three members. They are appointed and dismissed by the Croatian parliament. One of the members of the governing council is appointed by Hina's employees, another is an expert in the field of media and the remaining three members are experts in the fields of economy, finance, law and informatics. The government of the Republic of Croatia initiates the selective process for the Governing council by conducting a public call. The government proposes the council members to the parliament which discusses each of the proposed members individually and take their decision based on a prior approval of the authorized committee of the Croatian parliament.</p>
Management	<p>The General Manager is appointed by the Supervisory Board following a public tender. Once appointed, the General Manager is required to provide a certificate of competence, valid in the Republic of Slovenia, for the members of the Supervisory Board or the board of directors.</p>	<p>The Governing Council appoints the General Manager (principal) following and based on a public tender.</p>

Internal organization of STA is managed by the *Act on the establishment of the Slovenian Press Agency d.o.o.*, which is responsible for determining the STA's bodies and their respective jurisdictions, the requirements for the appointing and dismissal

of the General Manager, the editor-in-chief and remaining editors as well as their field of work and the legal relations between the General Manager, Supervisory Board and editorial office. The members of the Supervisory Board of STA are required to possess at minimum a second level University degree or another kind of degree in education which the legislation recognizes as equivalent as well as at least ten years of working experience or five years of managerial experience in fields to ensure the appropriate knowledge and expertise required for supervision of STA. The Law on STA defines thoroughly the conflict of interest in Article 12 which prevents any kind of personal, economic or political interest having influence over the Supervisory Board. The major jurisdictions of the Supervisory Board are the following: approval of the annual business plan at the General Manager's proposal, approval of the annual business report of the company; determining the allocation of the surplus of income (at the General Manager's proposal) and deciding and instating the General Manager of STA based on a public tender. The General Manager has unlimited representation authority except in the cases of concluding credit and investment contracts that surpass the amount of 5% of gross annual income of the STA (from the previous year), where the approval of the Supervisory Board is required. The General Manager of STA conducts social dialogue with the representatives of exemplar trade unions of the STA as well as concluding the collective labour agreement of the STA and acts as the representative of STA (as part of the employers) when signing the collective labour agreement for professional journalists.

Law on Hina provides a rather general definition of the conflict of interest. Article 11 states that a member of the Governing council cannot be a state official, a person who holds a position in the bodies of a political party, or a person who is employed or performs any other work in competing companies that could lead to a conflict of interest. The jurisdiction of the Governing council includes, among others, the approval of the development plan and working programme, approval of the financial construction, annual accounting report as well as the appointing and dismissal of the principal.

2. Internal organizational independence

Editorial and journalist autonomy is regulated by the articles within legislation that determine the appointing and dismissal of the editors and the editorial office's (employees) influence over that decision. The editor-in-chief of STA is appointed and dismissed by the General Manager after acquiring prior opinion of the editorial office. The editor-in-chief is appointed following a public tender. The General Manager must consult the editorial office about the potential candidates before appointing the editor-in-chief. If there is no majority approval within the editorial office, the appointment of the candidate in question is escalated to the Supervisory Board. The editorial office has the right, in such instances, to suggest their own selection from the candidates applied to the public call for the position of editor-in-chief. The editors of specific desks are appointed and dismissed by the editor-in-chief based on the prior opinion of the editorial board. Their mandate is tied to the mandate of the editor-in-chief.

The editor-in-chief of Hina is appointed by the Governing council of Hina following the public call and the proposal of the principal of Hina, based on the prior approval of journalists. Should the journalists not provide an opinion of approval for the appointing of the editor-in-chief, the principal can propose another candidate.

3. Financial independence

BTA is entirely financed from the state budget, its services are offered free of charge to the consumers (see Chapter 4 of Law on BTA).

The STA acquires its funding from: the state budget directly based on a yearly contract between the founder and the STA; marketing activities; sponsorship and donations and other sources in accordance with the law and the act on the establishment of STA. The amount of remuneration received yearly by STA via its public service contract cannot surpass the total amount of expenses determined by the yearly business plan of STA. In the event that the remuneration surpasses the yearly estimation by more than ten percent, the surplus over ten percent must be returned directly to the state budget. The state budget only finances activities in the realm of public service. The STA can perform activities that are not included in the public service framework, including: marketing of extensive media content, particularly summary news, thematic or analytical journalist texts, biographies, interviews, chronologies; marketing of advertising space of the section of the platform outside of the realm of public service: creating and facilitation of specialized services; marketing services, including marketable interactive content and services; public event organization; facilitating the provision of original text messages of STA; publishing activities intended solely for commercial purposes; commercial usage of archive material and other activities in accordance with the law (Law on STA, Article 5). The legislation demands financial transparency for public service (Article 6) which translates to the STA ensuring a determined, transparent and appropriate separation of activities between public service and marketing activities including a distinct separation in bookkeeping. The internal accountancy must separate between the public service and profit-oriented activities. The STA follows principles of journalism and agency informing rooted in transparency, impartiality and professionalism. The STA also abides to the principle of organizational and financial independence (Article 8). The entire operation and business of STA is subjected to a mandatory annual audit performed by an authorized auditor or auditing company which in turn determines the expediency and regularity of the business (Article 21). The STA provides an annual business report and audit report on the efficiency and regularity of operations from the first paragraph of the previous article for the National Assembly to be familiarized with. The Supervisory Board provides an annual report of its work to the National Assembly.

The Law on Hina determines that the agency generates income through: contract with the founder, contract with the service users, and donations and other activities that are a part of its functioning. To ensure a realistic balance between income and expenses determined by the work programme and financial construction, Hina coordinates the prices of its services annually with the representatives of the founder and the users.²² Despite the disparate sources of financing (public and commercial), the legislation does not determine a clear demand for separate accountancy and a prohibition of funds overflow. Hina is liable for all of their financial obligations with their own assets. The founder however does have an unlimited joint liability for the financial loss. The debts are primarily settled drawing from Hina's assets and only after from the state budget (Article 28 of the Law on Hina). The agency cannot declare bankruptcy without the approval of the Croatian parliament. Should the government not settle the debts within 90 days or decide on a different way of covering the financial loss, it is possible to declare bankruptcy.

22 Annual financial constructions and financial reports of Hina are available at: https://www.hina.hr/info/fin_plan.

III RECOMMENDATIONS

At the round table discussion "Solutions for the independence and sustainability of the Media Information Agency (MIA)", which was attended by representatives of the relevant state institutions, journalist associations, independent regulatory bodies, and media experts the following *recommendations* were unanimously adopted:

Recommendation 1 – Procedure for enacting a special law on MIA

The organization, financing and way of functioning of MIA should be regulated by a special law that will define the rights and obligations of the Media Information Agency (MIA) in the field of public information as a legal entity that performs activities of public interest.

It is recommended to the Government to start a procedure for drafting such a law, where the first step would be to form a stakeholder working group that would consider all the important aspects that the law should contain and would propose an appropriate legal solution in accordance with the positive regulations of the Republic of North Macedonia, which would ensure full institutional and financial autonomy and editorial independence of MIA.

Recommendation 2 – Guaranteeing the editorial independence of MIA

The law that will regulate the operation of MIA should contain special provisions that will guarantee its editorial independence; more specifically, it will ensure that MIA works according to the principles of independent, impartial and professional news-agency reporting and that MIA will not be exposed to any external pressures aimed at influencing the accuracy, objectivity and reliability of the information it publishes. It is also important to include provisions in the law that will ensure the independence of journalists working in the MIA and the right to refuse execution of an order that is contrary to the professional and ethical norms of the journalistic profession. Journalists employed by MIA should be given the right to give an opinion when deciding on the selection of the editor-in-chief of MIA.

Recommendation 3 – Ensuring full institutional autonomy

When drafting the law, special attention should be paid to finding an appropriate legal form of organizing MIA. According to the comparative experiences of other countries, the operation of the news and information agency that performs activities of public interest is regulated by a special law, which ensures complete

independence in the performance of the activity from the Government or any other state body.

In order to achieve effective and complete realization of institutional and financial autonomy of MIA, in addition to the provisions of the special law, it is necessary to harmonize the provisions of other legal regulations whose application also refers to the operation of MIA (for example, the Law on Media , the Law on Audio and Audiovisual Media Services, the Law on Budgets, Law on Administrative Servants, etc.)

Recommendation 4 – Selection of management and supervision bodies

The law that regulate the operation of the legal enterprise MIA should contain detailed provisions: the fact that the agency's management and leadership bodies are selected on the basis of a public competition, the criteria that candidates must meet, the issue of conflict of interest, and the conditions under which the members of these bodies can be dismissed.

Recommendation 5 – Funding model

The funding of MIA should also be regulated by law, and be stable and predictable to enable MIA long-term and independent planning and management of funds. According to the previous experience of the financing of MIA, as well as from the observations on the financing of similar agencies in other countries, the sources from which MIA will be financed should continue to be combined, which means that the basic source of financing is the Budget, and commercial services are only additional sources. In addition, this implies clearly defining in the Law what are the services of public interest that MIA provides and for which it receives funds from the Budget.

Regarding the financing model, it is recommended to consider the two possible models: determining a fixed percentage of the RNM Budget or introducing a provision in the Law according to which the Government undertakes to conclude a multi-year contract with MIA, based on a previously submitted Program for the provision of public services in the area of news and information activities with an assessment of the funds needed to perform those public services.

Recommendation 6 – Conditions under which MIA can carry out commercial activity

The provisions of the special law that will regulate the operation of the MIA should also contain provisions related to the way in which the MIA performs its commercial activity.