

Draft Law on National Service Broadcaster

Legal opinion and comments

Commissioned by the OSCE Mission to Montenegro

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Author: Davor Glavaš

Brief description of required services:

International consultant will be tasked to review draft of the amendments of Law on National Service Broadcaster and draft of Law on Media and prepare legal opinion on both legal texts. Moreover, the consultant will analyse recommendations suggested in the Media Sector Analyses (CoE) and provide alterations to the text of these recommendations, where deemed necessary.

Background: The Ministry of Culture is in the process of amending the Law on National Public Broadcaster RTCG and drafting the new Law on Media, which started on February 2018. As the process of drafting these laws is coming to an end, it was agreed that OSCE Mission to Montenegro will provide necessary legal opinion, analysis and possible alteration of recommendations stated in the Media Sector Analyses of COE.

Objective: The final objective is to improve the quality of the media legal framework with providing OSCE's legal opinion. The Mission will hire an international consultant to do assessment of the draft legal texts of the two laws providing legal opinion, and analyse and suggest possible alterations of recommendations stated in the Media Sector Analyses of COE.

Tasks and Responsibilities:

During the assignment the consultant will be tasked to produce **a comprehensive analysis with comments and recommendations for:**

- Draft amendments to the Law on National Service Broadcaster RTCG;
- Draft Law on Media;
- Media Sector Analyses (which is done with the support of CoE) recommendations.

During the assignment the consultant will be tasked to draft **legal opinion and advice which refers to:**

- **Draft Law on National Service Broadcaster RTCG**, analyzing entire draft text of all legal provisions and advising on a specific course of action (alteration/change) based on the international principles and standards;
- **Draft Law on Media**, analyzing entire draft of legal provisions and advising on a specific course of action (alteration/change) based on the international principles and standards.

Deliverable 2:

Draft Law on National Service Broadcaster

The draft Law on National Service Broadcaster (RTCG) is to a large degree aligned with the Audiovisual Media Services Directive (AVMSD) requirements. The draft Law includes all fundamental principles that must be incorporated into any Public Service Media¹ Law of an EU Member State, or of any individual country that is actively implementing and promoting the EU accession/negotiation process. In short, regardless of their original context (defined primarily by the EU Member States' experiences in creating an enabling environment for an efficient PSM role) these principles are universally valid, designed to set out the legal basis for a truly independent and responsible public service media.

As mentioned, all key areas and issues defined by the AVMSD have been addressed, and all key definitions transposed into this Draft, although often in a "technical" manner, without a proper explanation of the context. Some legal definitions/models have been taken directly from the PSM regulatory framework in use in Germany; some from the Croatian Law on HRT (Public Service Media), etc. This type of the verbatim transposition has not always taken into account the country's legal system and traditions, capacity for implementing democratic reforms, its geographical size, the ethnic and religious composition of its population, the state of development and education, the economic situation and the size of the (advertising and general) market, the social realities, etc.

Taking into consideration the above mentioned, as well as the structure of the Draft Law - primarily relatively extensive elaborations of some non-substantial elements (remuneration of the Council members, for example) that could have been defined within the related by-laws, the Expert deemed necessary to include into the Draft some additional clarifications, mostly as a more precise or contextual definition of terms referred to in this Draft. These sections of the amended Draft are highlighted in yellow. With the full understanding of the Law on PSM as a *lex specialis*, where the Law on Electronic Media (LEM) should have precedence, some sections stipulated in the Law on Electronic Media should be part of the Law on PSM. For example, the European AV works' quota has been clearly established in LEM, and then in Law on PSM as well. The Public Service remit, introduction of new services, cross subsidization as well. Some technical clarifications related to the PSM Council procedures are constitutive elements of both legislations. Therefore, the Expert deemed necessary to include LEM provision on the allowed advertising quota and other regulations on advertising time on RTCG, which is more important in defining the PSM playground than the above-mentioned examples.

¹ "Public Service Media" is the new terminology now commonly applied in EU documents and the latest regulations, which take into account that the services provided by public broadcasters now include online operations/content.

In general terms, the draft Law on RTCG and the Law on Electronic Media should be more coherent in definition of terms and in defining the subject of the issues addressed/stipulated in both pieces of legislation. As an example, Article 76č of the Law on Electronic Media (“Separate accounting”) is different in wording compared to the draft Law on RTCG equivalent (Article 16a). The same goes for differences in defining cross-subsidization, which is more clearly defined in Article 76 of the Law on Electronic Media, than in corresponding Article 15a of the draft Law on RTCG. More substantial differences could be noticed in Article 9 c of the draft Law on RTCG (III RTCG’S Obligations and Responsibilities: Services of public interest/ New services introduction) and in the corresponding Article 76c of the Law on Electronic Media (“Introduction of new service”), which could be even misleading. This Expert finds legal stipulations and definitions as presented in the Law on Electronic Media as more coherent and precise than the corresponding articles in the draft Law on RTCG. Considering the specific interplay between the two legislations (which could be defined to some degree as relations between *lex generalis* and *lex specialis*) – this Expert recommends using one single definition in both pieces of legislation, wherever it makes sense, and wherever referring to exactly the same issue/matter. The same applies to different terminology used: while Articles 9a and 9b of the draft RTCG Law refers to “agreement between the RTCG and the Government”, the Law on Electronic Media defines it as “contract between the RTCG and the Government”. Since “agreement” and “contract” do not have the same direct and contextual meaning, this Expert recommends to use the term “contract” when referring to the financial, programming and other arrangements between the two parties.

These additions (as identified in the paragraph above) are important in creating a balanced and “rounded” legislation but could be still considered as merely technical clarifications and adjustments of the main body of the draft. Indeed, they are not of a substantive importance for reading this Law; it is more about providing a contextual background for understanding the overall environment for its implementation and the media ecosystem in Montenegro as such.

However, there is a more substantial and structural change this Draft should be submitted to.

In many transitional and post-transitional countries, there is still a widespread underlying notion of public service broadcasting being a type of “official” broadcasting which is not controlled anymore by the government, but by the democratically-elected majority in parliament. In other words, those who hold the political power also control the public service media, the primary formal difference compared with the authoritarian past being that those in power today have democratic legitimacy. Of course, this legitimacy does not make by itself the system immune to democratic deficits. On the contrary, there are too many examples of democratically elected political elites, with a full formal legitimacy, who consider democracy as a right consumed by the very act of voting, creating in this way a substantive lack of absorption capacity to fully embrace democracy as the set of values, checks and balances, and democracy as the full respect of procedures.

In these terms, the European Commission’s Montenegro 2018 report² (issued in April 2018), underlines a number of elements that define Montenegro’s deficits when it comes to the

² https://eeas.europa.eu/headquarters/headquarters-homepage/43059/key-findings-2018-report-montenegro_lt

universally recognized standards of the mature and fully efficient democracy. “Montenegro has achieved some level of preparation on freedom of expression, but no progress was made in the reporting period”, reads page 4 of the Report. “Concerning Montenegro's ability to assume to the obligations of membership (...) strengthening the administrative capacity for ensuring the application of the *acquis* remains a substantial challenge”, reads page 5 of the European Commission’s Report.

“The transition from State to public service and from broadcasting to public service media has yet to be successfully completed in many Council of Europe member States. Rethinking and reconstructing their governance systems will be a decisive factor in public service media organisations’ ability to address this and other challenges they are confronted with”, warns the Council of Europe Recommendation CM/Rec (2012) 1 on public service media governance (February 2012)³. In more detail, Article 14 (“A new framework for governance”) of this Recommendation says: “Traditional definitions of governance are insufficient to take full account of the new and more complex media environment. Narrow definitions typically focus on the precise legal and administrative steps taken to ensure the appropriate composition of boards and managing structures. They tend to concentrate on the detail of appointment procedures, the terms of tenure and permissible grounds for dismissal, conflicts of interest and methods by which the organisation will be held accountable. While these issues are all of fundamental importance in a proper and well-functioning governance system, they must be placed in a broader context”.

This could be used also as a precise definition of the main deficiency of the Draft Law on RTCG, as seen by this Expert. Using the CoE Recommendation’s wording, „issues must be placed in a broader context“.

As underlined in a comprehensive document jointly prepared by the European Union and the Council of Europe team (“Montenegro Media Sector Inquiry with Recommendations for Harmonisation with the Council of Europe and European Union standards“, December 2019), the RTCG organisation structure and the recruitment procedures are “in cascade”: the Council appoints a General Director; the General Director appoints a director for radio and one for television, and these appoint the heads of the various units below them. This “cascade” type of appointments (which also by itself creates a specific “chain of command”) is not country (or RTCG) specific, but given the overall political environment in Montenegro (and the already mentioned deficits in terms of the mature democracy standards) the potential of transforming this organisation/appointment model into an efficient political control is not to be underestimated, not at all. Namely, a political party that effectively holds a majority of the Council (as such was the case for the ruling party until recently), could direct all appointments down the “cascade” towards individuals aligned with that party. This by itself creates the necessity for a counterbalance by external and independent oversight and regulation. The present Draft makes the RTCG management accountable only to the Council when it comes to reporting on the fulfilment of its obligations. This in-house regulatory scheme is not unique in Europe; as the Report mentions, German PSMs are not regulated by the Landers’ media authority as an

³ https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cb4b4

“external” regulator, but this scheme is still a minority solution; not to mention cultural, socio-economic and political differences between Germany and Montenegro in the given context. In the United Kingdom, for instance, oversight powers have been recently transferred from the BBC Trust to OFCOM⁴, says the Report, suggesting that such similar move should be considered in Montenegro, as well.

However, in terms of the current legal framework in Montenegro, and considering the OFCOM oversight powers (which could be defined as an aggregate of powers of all regulatory bodies in Montenegro) such a move would require a complete reform of the country's legal framework and the regulatory environment. This would obviously go beyond the perimeter of the ongoing media reform.

More applicable solution to the potential implications of the “cascade” model (primarily in terms of the political control over the PSM) would be introduction of the PSM governing model with two separate bodies (a Programming Council and Supervisory Board); one devoted to supervision of programming functions and the other to oversight of the financial operations of PSM.

The current draft Law is based on a single governing body (RTCG Council) supervising both the programming and the financial RTCG performance. This model, in fact, gives the legitimacy and opens the way to political control over PSM, especially considering deficits in implementing standards of mature democracies. A dual governing model would make the political control over RTCG not actually impossible, but definitely more demanding and less “linear” than in a single governing system.

This Expert would also suggest adjustments to this Draft that would define a different model of appointing RTCG General Manager. The cascade model gives a ruling party, as the party that usually effectively controls the majority of the RTCG Council, a possibility to have a direct influence on the procedure of appointing the PSM General Manager. Introduction of the dual governing model coupled with the new appointing procedure for the General Manager position (in this new model, General Manager would be appointed/confirmed by the qualified majority in the Parliament, disabling a direct transmission of the particular interest of the ruling party/coalition and favouring a wider consensus for appointing a nominee for this position), would additionally limit a raw political influence over the Public Service Media.

These recommendations are elaborated in more detail in an appropriate context in each relevant section/articles of this Draft.

The joint Report prepared by the European Union and the Council of Europe team (“Montenegro Media Sector Inquiry with Recommendations for Harmonisation with the Council of Europe and

⁴ <https://www.ofcom.org.uk/home>

European Union standards“) suggested the following recommendations for the successful RTCG transition from the state broadcaster to the modern Public Service Media:

- RTCG should continue with efforts to evolve into a public service media company, accountable first and foremost to the Montenegro public.
- RTCG should flag any attempt of interference with the exercise of its public service objectives.
- RTCG should continue with organisation restructuring and modernisation of business processes, allowing the company to keep up with the social, cultural, technological and business change.
- RTCG should actively assert the professional journalistic and quality standards.
- RTCG should strengthen production of original content, addressing different social groups and allow for participation of independent producers.
- RTCG shall promote the European AV works and shall set an example in the implementation of standards protecting children from harmful content, and other provisions stemming from the AVMSD.

It has to be said that most – if not all – of these recommendations are mainly contextual, defining the desirable course of events and goals to be achieved by the RTCG management without giving concrete solutions for each step to be conducted. However, in general terms, it would be safe to say that the presented Draft Law follows the spirit of these recommendations and share the same ultimate goal: which is a modern, efficient, independent and responsive Public Service Media in Montenegro.

The Draft Law on RTCG: Recommendations

The Radio and Television of Montenegro National Public Broadcaster Law's consolidated text comprises the pieces of legislation as follows: 1. The Radio and Television of Montenegro National Public Broadcaster Law (Official Gazette of Montenegro, No. 079/08 of December 23rd 2008), 2. The Law on Amendments and Supplements to the Law on Public Broadcasting Services of Montenegro (Official Gazette of Montenegro, No. 045/12 of August 17th 2012), 3. Montenegro Constitutional Court Ruling No. U-I br. 25/12 of March 31st 2016 (Official Gazette of Montenegro, No. 043/16 of July 20th 2016), 4. The Law on Amendments and Supplements to the Law on Public Broadcasting Services of Montenegro (Official Gazette of Montenegro, No. 054/16 of August 15th 2016) that include their entering into force dates respectively indicated.

THE LAW ON RADIO AND TELEVISION OF MONTENEGRO NATIONAL PUBLIC BROADCASTER

(Official Gazette of Montenegro, Nos.: 079/08 of December 23rd 2008; 045/12 of August 17th 2012; 043/16 of July 20th 2016; 054/16 of August 15th 2016)

I. BASIC PROVISIONS

Subject matter of the Law

Article 1

A national public broadcaster shall perform their activity according to the law and international standards and rules of the profession.

This law should be interpreted in accordance with the provisions laid down by the Law on Electronic Media, regulation or administrative action concerning the provision of audiovisual media services (Audiovisual Media Services Directive), principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms, using the practice of the precedent law of the European Court of Human Rights.

Defining the remit of public service media, the Council of Europe issued the following Recommendation:

Council of Europe Recommendation CM/Rec(2007)3

Guiding principles concerning the remit of public service media in the information society

I. The public service remit: maintaining the key elements

1. Member states have the competence to define and assign a public service remit to one or more specific media organisations, in the public and/or private sector, maintaining the key elements underpinning the traditional public service remit, while adjusting it to new circumstances. This remit should be performed with the use of state-of-the-art technology appropriate for the purpose. These elements have been referred to on several occasions in Council of Europe documents, which have defined public service broadcasting as, amongst other things:

- a) a reference point for all members of the public, offering universal access;
- b) a factor for social cohesion and integration of all individuals, groups and communities;
- c) a source of impartial and independent information and comment, and of innovative and varied content which complies with high ethical and quality standards;
- d) a forum for pluralistic public discussion and a means of promoting broader democratic participation of individuals;
- e) an active contributor to audiovisual creation and production and greater appreciation and dissemination of the diversity of national and European cultural heritage.

2. In the information society, relying heavily on digital technologies, where the means of content distribution have diversified beyond traditional broadcasting, member states should ensure that the public service remit is extended to cover provision of appropriate content also via new communication platforms.

II. Adapting the public service remit to the information society

a. A reference point for all members of the public, with universal access offered

3. Public service media should offer news, information, educational, cultural, sports and entertainment programmes and content aimed at the various categories of the public and which, taken as a whole, constitute an added public value compared to those of other broadcasters and content providers.

4. The principle of universality, which is fundamental to public service media, should be addressed having regard to technical, social and content aspects. Member states should, in particular, ensure that public service media can be present on significant platforms and have the necessary resources for this purpose.

5. In view of changing user habits, public service media should be able to offer both generalist and specialised contents and services, as well as personalised interactive and on-demand services. They should address all generations, but especially involve the younger generation in

active forms of communication, encouraging the provision of user-generated content and establishing other participatory schemes.

6. Member states should see to it that the goals and means for achievement of these goals by public service media are clearly defined, in particular regarding the use of thematic services and new communication services. This may include regular evaluation and review of such activities by the relevant bodies, so as to ensure that all groups in the audience are adequately served.

b. A factor for social cohesion and integration of all individuals, groups and communities

7. Public service media should be adapted to the new digital environment to enable them to fulfil their remit in promoting social cohesion at local, regional, national and international levels, and to foster a sense of co-responsibility of the public for the achievement of this objective.

8. Public service media should integrate all communities, social groups and generations, including minority groups, young people, old persons, the most disadvantaged social categories, persons with disabilities, while respecting their different identities and needs. In this context, attention should be paid to the content created by and for such groups, and to their access to, and presence and portrayal in, public service media. Due attention should be also paid to gender equality issues.

9. Public service media should act as a trusted guide of society, bringing concretely useful knowledge into the life of individuals and of different communities in society. In this context, they should pay particular attention to the needs of minority groups and underprivileged and disadvantaged social categories. This role of filling a gap in the market, which is an important part of the traditional public service media remit, should be maintained in the new digital environment.

10. In an era of globalisation, migration and integration at European and international levels, the public service media should promote better understanding among peoples and contribute to intercultural and inter-religious dialogue.

11. Public service media should promote digital inclusion and efforts to bridge the digital divide by, *inter alia*, enhancing the accessibility of programmes and services on new platforms.

c. A source of impartial and independent information and comment, and of innovatory and varied content which complies with high ethical and quality standards

12. Member states should ensure that public service media constitute a space of credibility and reliability among a profusion of digital media, fulfilling their role as an impartial and independent source of information, opinion and comment, and of a wide range of programming and services, satisfying high ethical and quality standards.

13. When assigning the public service remit, member states should take account of the public service media's role in bridging fragmentation, reducing social and political alienation and promoting the development of civil society. A requirement for this is the independent and impartial news and current affairs content, which should be provided on both traditional programmes and new communication services.

d. A forum for public discussion and a means of promoting broader democratic participation of individuals

14. Public service media should play an important role in promoting broader democratic debate and participation, with the assistance, among other things, of new interactive technologies,

offering the public greater involvement in the democratic process. Public service media should fulfil a vital role in educating active and responsible citizens, providing not only quality content but also a forum for public debate, open to diverse ideas and convictions in society, and a platform for disseminating democratic values.

15. Public service media should provide adequate information about the democratic system and democratic procedures, and should encourage participation not only in elections but also in decision-making processes and public life in general. Accordingly, one of the public service media's roles should be to foster citizens' interest in public affairs and encourage them to play a more active part.

16. Public service media should also actively promote a culture of tolerance and mutual understanding by using new digital and online technologies.

17. Public service media should play a leading role in public scrutiny of national governments and international governmental organisations, enhancing their transparency, accountability to the public and legitimacy, helping eliminate any democratic deficit, and contributing to the development of a European public sphere.

18. Public service media should enhance their dialogue with, and accountability to, the general public, also with the help of new interactive services.

e. An active contributor to audiovisual creation and production and to a greater appreciation and dissemination of the diversity of national and European cultural heritage

19. Public service media should play a particular role in the promotion of cultural diversity and identity, including through new communication services and platforms. To this end, public service media should continue to invest in new, original content production, made in formats suitable for the new communication services. They should support the creation and production of domestic audiovisual works reflecting as well local and regional characteristics.

20. Public service media should stimulate creativity and reflect the diversity of cultural activities, through their cultural programmes, in fields such as music, arts and theatre, and they should, where appropriate, support cultural events and performances.

21. Public service media should continue to play a central role in education, media literacy and life-long learning, and should actively contribute to the formation of knowledge-based society. Public service media should pursue this task, taking full advantage of the new opportunities and including all social groups and generations.

22. Public service media should play a particular role in preservation of cultural heritage. They should rely on and develop their archives, which should be digitised, thus being preserved for future generations. In order to be accessible to a broader audience, the audiovisual archives should, where appropriate and feasible, be accessible online. Member states should consider possible options to facilitate the accomplishment of such projects.

23. In their programming and content, public service media should reflect the increasingly multi-ethnic and multicultural societies in which they operate, protecting the cultural heritage of different minorities and communities, providing possibilities for cultural expression and exchange, and promoting closer integration, without obliterating cultural diversity at the national level.

24. Public service media should promote respect for cultural diversity, while simultaneously introducing the audience to the cultures of other peoples around the world

The following Articles of the draft Law on RTCG fulfil the above elaborated CoE Recommendation in a satisfactory manner.

Radio and Television of Montenegro

National Public Broadcaster

Article 2

Radio Montenegro and Television of Montenegro shall be Radio and Television of Montenegro National Public Broadcaster.

Providing public audiovisual services for which Montenegro shall ensure independent financing according to both the law and the state aid rules intended for broadcasting services shall be the activity of the National Public Broadcaster referred to in paragraph 1 above.

Providing public audiovisual services that meet the democratic, social, cultural, educational, and other needs of public interest to all segments of Montenegrin society; ensuring that the field of informing-related rights and interests are exercised by citizens and other entities regardless of their political, religious and cultural affiliations, race or gender shall be the activity of the National Public Broadcaster referred to in paragraph 1 above.

Radio and Television of Montenegro

Article 3

The public enterprise Radio and Television of Montenegro shall be the Radio and Television of Montenegro National Public Broadcaster.

The State shall be considered as the Founder of the public enterprise Radio and Television of Montenegro.

The public enterprise's abbreviated designation shall be RTCG.

The RTCG's registered office shall be in Podgorica.

According to the law, the RTCG Council shall exercise the Founder's rights, on behalf of the State.

II. RTCG's ACTIVITIES

Exercise of public interest

Article 4

Public broadcasters shall produce and transmit radio and/or television broadcasts and multimedia content with information, cultural, art, educational, scientific, children's, entertainment, sport and other programmes ensuring the exercise of rights and interests of citizens and other entities in the information sector.

(2) The exercising of public interest, in terms of this Law, means to:

- 1) autonomously and independently produce, edit and transmit programmes and multimedia content not in the service of political, economic or other levers of power;
- 2) inform the public in an objective and timely fashion of political, economic, cultural, educational, scientific, sport and other major events and occurrences in the country and abroad;
- 3) produce and transmit programmes and multimedia content intended for different groups in society, free of discrimination, particularly taking into account specific societal groups such as children and the young, members of minority nations and other minority communities, persons with disabilities, socially and health disadvantaged groups, etc;
- 4) cherish public communication culture and linguistic standards;
- 5) produce and transmit programmes and multimedia content expressing Montenegrin national and cultural identity, and cultural and ethnic identity of minority nations and other minority communities;
- 6) produce and transmit programmes and multimedia content in languages of minority nations and other minority communities within the areas where they reside;
- 7) during election campaigns, based on special rules, ensure equal representation of political parties, coalitions and candidates whose candidacy and candidate lists have been approved;
- 8) mutually cooperate and exchange programmes of interest for the citizens of Montenegro.

The major activity performing

Article 5 (4)

The RTCG's major activity shall be delivering public audiovisual services (hereinafter referred to as the public services), i.e. the production of radio, audiovisual and multimedia programmes, music production, delivering audio and audiovisual media services, multimedia services and electronic publishing as public services.

The activities referred to in paragraph 1 above shall be performed by the RTCG through

1. broadcasting two programmes of the Radio of Montenegro through the terrestrial network of the broadcasting transmitters at the national level;
2. the Television of Montenegro's two national programmes broadcasting by means of a terrestrial broadcasting network;
3. broadcasting the Parliamentary programme;
4. the radio programmes broadcasting by means of a satellite;
5. the television programmes broadcasting by means of a satellite;
6. audio and audiovisual programme content producing and their broadcasting on the Internet Portal;
7. public music performances and their recording/shooting; arranging events and concerts of national importance; and
8. producing other programme services
9. offering the provision of AVM service on request

The RTCG may also both produce other audio and audiovisual programmes and circulate them by means of terrestrial and satellite networks, the Internet and other transmission ways.

Audio and audiovisual contents circulated through the Internet portal must follow the RTCG programme contents, and the RTCG editorial standards

The RTCG programme receiving must be provided by each radio and television network respectively to the population within at minimum 85% of the Montenegro's territory.

Delivering commercial audiovisual services

Article 6 (5)

Besides the public services referred to in paragraph 1 of Article 4 of this Law, the RTCG may deliver also commercial audiovisual services such as:

1. sale of programmes intended for advertising messages and other audiovisual communications;
2. product placement, as stipulated in Article 6b

3. sponsorship;
4. teleshopping;
5. rebroadcasting of programmes;
6. distribution of programmes (assignment of the rights to broadcasting programmes, selling of programmes); and
7. renting out of the technical and production and logistical resources, as AV services.

Delivering the services referred to in paragraph 1 above must be done independently of delivering the public services referred to in Article 4 of this Law.

Article 6b

Product placement

Product placement shall be prohibited.

By way of derogation from paragraph 1, product placement shall be admissible:

- 1) in cinematographic works, films and series made for AVM services, sports programmes and entertainment programmes not including programmes intended for children;
- 2) where there is no payment but only the provision of certain goods or services free of charge, such as production props and prizes, with a view to their inclusion in a programme.
- (3) Product or service placement, in accordance with item 2 of paragraph 2 above, shall be deemed to mean inclusion into programmes solely of goods or services of substantial value.
- (4) By a separate document, Council shall regulate the manner for determining the substantial value of goods or services placed, taking into account that value is determined in relation to the production costs or costs payable for placing goods or services into the programme.
- (5) Programmes that contain product placement shall meet the following requirements:
 - 1) their content, and their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the AVM service provider;
 - 2) they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services or by giving prominence to the product;

3) viewers shall be clearly informed of the existence of product placement by appropriate identification at the start and the end of the programme and after an advertising break, in order to avoid any confusion on the part of the viewer.

Change of the major activity

Article 7(6)

Neither the major activity changes nor the RTCG privatization may be approached to without a consent given by the Parliament of Montenegro (hereinafter referred to as the Parliament).

Internal organization

Article 8(7)

The RTCG shall determine the internal organization and method of operation, according to both the law and the Articles.

The RTCG shall have two operational and organizational units, namely the Radio of Montenegro and the Television of Montenegro.

The organizational units' responsibilities in legal transactions shall be defined by the RTCG Articles, according to the law.

III RTCG'S OBLIGATIONS AND RESPONSIBILITIES

Services of public interest

Article 9

The public services referred to in paragraph 1 of Article 4 of this Law shall be the programme-related RTCG's obligations that meet the democratic, social and cultural needs of the Montenegrin society and that guarantee pluralism, including also cultural and language diversity, whereas—along with applying high standards of both professional ethics and quality, while without any form of discrimination—the RTCG shall be under an obligation to produce and broadcast the programme contents that

1. serve as reference points in terms of strengthening collectiveness and social integration of all individuals, groups and communities;
2. in a balanced manner and with appropriate representation of informative, cultural, educational, scientific, sport and entertaining programmes, meet public interests on both national and local level;

3. ensure a space for open and free expression of different opinions and positions on issues of public interest;
4. are intended for all segments of the society, while paying particular attention to children and youth, members of ethnic minorities and other national minority communities, disabled persons, socially vulnerable and other specific groups;
5. make recognized and cherish the Montenegrin national and cultural identity, respective ethnic minorities and other national minority communities' cultural and ethnic identities, European cultural heritage and cultural diversity;
6. make recognized the Montenegrin cultural heritage, encourage and cherish cultural and artistic creation, and disseminate the knowledge about different cultures living in Montenegro;
7. reflect different ideas and religious convictions existing within the society, with the aim of strengthening understanding and tolerance and promoting multicultural, multiethnic and multi-confessional character of Montenegro;
8. contribute to the respect for and the progress of fundamental human rights and freedoms, democratic values and institutions, and pluralism of ideas, public dialogue culture, linguistic standards, privacy and dignity of individuals;
9. encourage the development and progress of the society's democratic culture;
10. promote and support the civil society values and present civic initiatives;
11. fairly, truly, timely, intelligibly and objectively inform about national and international events of public interest;
12. reflect the actual life challenges typical of different structures of the Montenegrin society;
13. present and make recognized historical sources and material facts telling about history;
14. publicize both the development and the ecological character of Montenegro;
15. inform the public about the matters of importance to human health and protection as well as of the property, cultural assets and environmental protection;
16. ensure production and presenting the Montenegrin cinematography and audiovisual opuses;
17. during an election campaigning, while according to special rules, ensure balanced presentation of political factions, collations and individuals.

Public services delivery agreement Contract

Article 9a

The programme-related obligations referred to in Article 9 of this Law as well as the amount and source of funds for financing them shall be stipulated by an agreement contract entered into by the Government of Montenegro and the RTCG (hereinafter referred to as the Agreement Contract).

The Agreement Contract shall be entered into for a three-year period*, according to the macroeconomic and fiscal policy guidelines.

*A five year period would give the RTCG management more stable environment for implementing structural reforms (including reducing the number of employees, for example). It would also go beyond one electoral cycle, reducing additionally the RTCG's exposure to political pressures.

Prior to entering into the Agreement Contract, the RTCG shall undertake both to prepare the RTCG's programme-related obligations and to hold a public 45-day long discussion about it so that the public can give their opinion on whether the proposed programme related obligations meet the criteria laid down by Article 9 of this Law.

The Agreement Contract shall define the type and scope of all public services delivered by the RTCG, in term of Article 9 of this Law.

Besides the programme-related obligations set out in Article 9 of this Law, the Agreement Contract shall identify programme contents intended to science, education and culture development; informing the persons with hearing and visual impairment as well as the programme contents in the Albanian Language and in the languages spoken by the members of ethnic minorities and other national minority communities.

The amount of funds intended for delivering the public services set out in the Agreement Contract must not exceed net costs that are required for delivering such services, taking into account other direct and indirect income resulting from the services delivering. During calculating the net costs of the public services delivering, taken into account shall be the net proceeds from all commercial audiovisual services related to the services concerned.

The RTCG shall be under an obligation to table the Agreement Contract in the form of a proposal to the Government of Montenegro (hereinafter referred to as the Government), at latest within six months prior to the effective Agreement expiration.

The Contract and its amendments shall be submitted for insight to the independent regulator for the field of electronic media not later than 15 days since its execution.

At latest by December 31st of any current year and based on the Agreement Contract, whereas for the next year, the RTCG shall mandatorily develop an action plan and financial plan that will set out the activities and the programme-related obligations as well as the funds for their realization.

Where the Agreement Contract is changed in terms of the RTCG's programme-related obligations, it shall be required to approach to the procedure referred to in paragraph 3 above.

The Agreement Contract content

Article 9b

The Agreement Contract shall list the public services that the RTCG shall be required to deliver within the stipulated time period as well as their respective types; purposes; programme grounds; the respective numbers of the radio and television programmes; designations of the RTCG's Internet sites and portals respectively; and the requirements to be met for other public services delivery, taking into account both the public needs and the electronic media technology development needs.

The Agreement Contract shall set out the method of financing the public services delivered by the RTCG, per years and sources, accompanied by the account of costs per years and types; the powers and responsibilities of the RTCG's authorities relative to the management of all funds projected for the Agreement Contract performance; and reporting about the Agreement performance.

The Agreement's Contract's provisions setting out the financing in terms of paragraph 2 above must be in compliance with the state aid rules relating to the public broadcasting services.

New services introduction

Article 9c

RTCG may introduce significantly new audio-visual services on new distribution platforms that are intended for broader public providing they satisfy democratic, social and cultural needs of society and shall not lead to disproportional consequences on the market that are not necessary for fulfilling the public service function.

For the purpose of paragraph 1 herein, a significantly new audio-visual service is considered the service that is provided for the first time and it is significantly different from the services provided by the RTCG, as well as a service that is substantially changed with respect to its content, technical preparedness, approach and the intended target group.

The proposal to introduce a significantly new audio-visual service or more such services shall contain precise description of services and justification of its introduction, the target group that the services are related to, the costs of providing services and assessment of possible impacts on market competition.

Before introducing a significantly new audio-visual service or more such services the RTCG shall organize public debate in accordance with article 9a of this Law.

After conducting the public debate referred to in paragraph 4 herein, the RTCG director general shall submit the proposal to introduce a significantly new audio-visual service or more such services for opinion to the authority responsible for protection of competition, related to possible impacts of a significantly new audio-visual service or more such services on competition at the relevant market.

The director general shall submit the comments and suggestions received through the public debate, as well as the opinion of the authority responsible for protection of competition, to the Council of the

independent regulator for the field of electronic media. The RTCG Council shall decide on introducing a significantly new audio-visual service or more such services, after it receives the licence and consent from the Council of the independent regulator for the field of electronic media.

Oversight of the Contract Implementation

Article 9d

Oversight of the Contract implementation, in the part related to programme obligations from Article 9 of this law, is conducted by the independent regulator for the field of electronic media. RTCG shall submit the report on the realization of programme obligations, which is the component part of the annual activity report, to the independent regulator for the field of electronic media, not later than by the end of April 30, for the previous year. The independent regulator for the field of electronic media shall publish the opinion on the realization of programme obligations from the Contract on its website within the 60 days from being submitted the report referred to in paragraph 2 herein. RTCG shall provide all data, information and documents necessary to perform oversight referred to in paragraph 1 of this article, upon request by the independent regulator for the field of electronic media, The Council of the independent regulator for the field of electronic media shall prescribe in a separate act more detailed conditions for providing data significant for performing oversight referred to in paragraph 1 herein.

European works

Article 9e

RTCG shall ensure that European works make 51% of its annual broadcasting time.

RTCG shall broadcast at least 40% of the works referred to in paragraph 1 herein originally in Montenegrin language on every RTCG television programme channel.

RTCG shall provide at least 10% of the programme and production plan for the current year for purchasing European works of independent producers, while half of these funds must be intended for works produced originally in Montenegrin language.

Notwithstanding paragraph 3 of this article, and in the case of the works produced originally in Montenegrin language does not satisfy the prescribed criteria established by the general terms and conditions, the balance of investing shall be determined with relation to the programme needs and market supply of European works for purchase.

The method and procedure for selecting programmes referred to in paragraph 3 herein are established by the RTCG general terms and conditions, which are published at the RTCG Internet page.

The director general shall submit the Report on realization of provision under paragraph 3 herein to the RTCG Council and to the independent regulator for the field of electronic media, by March 31 for the previous year.

Article 9f

„European works“ as referred to in Article 9e shall mean

- a) works originating in European Union Member States;
- b) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of paragraph 3; c)
- c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Union and third countries and fulfilling the conditions defined in each of those agreements.

This definition („European works“) should be part of this Law. This is a standard definition, based on AVMS Directive. The following are examples of the „European works“ definition in OfCom Guidance, and in the relevant legislation in Italy, Denmark and Austria.

OfCom:

Ofcom's Guidance on compliance with Articles 16 and 17 of AVMS Directive - Definitions

European programming' has the meaning attributed to 'European works' in Article 1 of the AVMS Directive. This includes:

- a) works originating in European Union Member States;
- b) works originating from European third States party to the European Convention on Transfrontier Television of the Council of Europe; and
- c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Community and third countries and fulfilling the conditions defined in each of those agreements.

Italy

Audiovisual Media Services Code - Consolidated 13 August 2015

“European works” shall mean:

- 1) the works that fall under the following typologies:

- 1.1) works originating in Member States;

1.2) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe, signed in Strasbourg on 5 May 1989 and ratified by Law No 327 of 5 October 1991 and fulfilling the conditions of point 2);

1.3) works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions defined in each of those agreements

Denmark

Executive Order on Registration-Based Programme Activity and On-Demand Audiovisual Programme Activities - consolidated nr. 697 of 8 June 2016

For the purposes of the present Executive Order, “European works” shall mean:

- 1) works originating in Member States of the European Union;
- 2) works originating in non-EU countries that are party to the European Convention on Transfrontier Television of the Council of Europe and fulfil the conditions of point 3; and
- 3) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Community and third countries and fulfilling the conditions defined in each of those agreements.

Austria

Federal Act on Audio-visual Media Services (AMD-G) - consolidated 30 July 2015 -

European works:

- a) works originating in Member States;
- b) works originating in European third countries party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of item 1m;
- c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Community and third countries and fulfilling the conditions defined in each of those agreements.

Professional standards and programme rules

Article 10

The RTCG shall be under an obligation to adopt and follow the professional standards and programme rule.

RTCG shall not receive sponsorship and other forms of donations for news and political programme contents.

Staff's rights and responsibilities

Article 11

The RTCG staff shall exercise their rights and perform their responsibilities according to the separate laws regulating the labor and employment areas respectively.

The RTCG staff shall be entitled to freely associate with national and international organizations, for the purposes of protecting their professional, economic and social rights and interests.

RTCG's accountability

Article 12

The RTCG shall be accountable to the public.

The RTCG's accountability shall be exercised through

1. the procedure for appointing the RTCG Council, their public work and responsibilities to represent and protect the citizens' interests in the information area;
2. informing the public about the RTCG's activities, by publishing either print or electronic form of the RTCG Operation Bulletin;
3. prescribing and conducting procedures by which viewers and listeners are ensured to submit their petitions and complaints concerning the RTCG operation;
4. by appointing Ombudsman.

IV. RTCG INDEPENDENCE

Programme independence

Article 13

The RTCG shall be independent in their programme editing and, according to that, they shall

1. establish their programme schedule;
2. establish their production and broadcasting conception;

3. edit and broadcast pieces of information about actual events;
4. arrange their activity performance.

Journalist independence

Article 14

Journalists employed with the RTCG shall be independent in their work and they shall act serving the best interests of the public. It shall not be allowed to have a journalist employment, i.e. salary terminated; his/her status in the editorial board changed; or a liability found on the grounds of his/her attitude or opinion expressed in line with the professional standards and programme rules.

Journalists employed with RTCG shall not receive remunerations from the external legal and physical persons for their work.

Council of Europe Recommendation 1878 (2009)

The funding of public service broadcasting

(...)

(5) Public service broadcasters must be an important public source of unbiased information and diverse political opinions; they must function under high editorial standards of objectivity, fairness and independence from party political or economic interference; they should be subject to higher public scrutiny and accountability for their programming than commercial broadcasters; they should contribute decisively to the production of audiovisual works of high quality; they should provide a wide audience with free access to informal educational and cultural programmes; they have the possibility and obligation also to serve minority viewers and people with special needs who would not be served in a purely commercial market; they should therefore support non-commercial objectives, such as social progress, public interest in democratic processes, intercultural understanding and societal integration. When they fulfil these functions, public service broadcasters constitute an important public asset which should not be diminished or abandoned

14. The funding of public service media may be ensured, through a flat broadcasting licence fee, taxation, state subsidies, subscription fees, advertising and sponsoring revenue, specialised pay-per-view or on-demand services, the sale of related products such as books, videos or films, and the exploitation of their audiovisual archives. In this regard, public service media may have mixed funding similar to other public cultural institutions such as orchestras, theatres or museums. Each of these forms of funding must enable public service broadcasters to meet the public service requirement of accessibility and affordability for the public at large

Provision on sources of the RTCG financing is aligned with the CoE Recommendations and other international standards.

It should be mentioned also that the defined budget allocation for the RTCG programming, production and other eligible costs represents in average 19.5 euro per capita, which is the highest per capita spending in the Western Balkans region (for example, the equivalent for Serbia is 13.3 euro, for Macedonia 10.4 euro, Albania 5.9 and Bosnia and Herzegovina 5.1. However, this average per capita spending should be considered primarily in relation to the respective countries' population.

V. FINANCE FOR RTCG

Sources of finance

Article 15

The RTCG shall get funds through

1. the Montenegrin Budget allocation;
2. producing and broadcasting commercial contents;
3. producing and selling audiovisual works (shows, films, series, and alike) and audio and visual recording mediums, serving the interests of the public;
4. program content sponsorships;
5. organizing concerts and other public shows;
6. other sources, according to the law.

Cross subsidization

Article 15a

The Montenegrin Budget allocation may not be used by the RTCG for financing commercial audiovisual services (cross-subsidization).

If the RTCG acts contrary to paragraph 1 above, the RTCG Governing Board shall order the return of unlawfully expended funds and their use solely for performing the activity of the public services delivering according to this Law. The return of unlawfully expended funds shall be done by means of paying them back into the Montenegrin Budget account.

The funds that have not been spent for the activity of the public services delivering as said by the Agreement referred to in Article 9 of this Law and that exceed the amount accounting for 10% shall be paid into the Montenegrin Budget account.

For more coherence and clarity, the recommendation would be to use the corresponding stipulation from the Law on Electronic Media:

Article 15a

The RTCG shall not use funds from the budget of Montenegro, or the budget of the local self-government unit, for financing commercial audiovisual services (cross-subsidization).

If the RTCG acts contrary to paragraph 1 of this Article, the Public Broadcasting Council shall impose the refund of unlawfully spent funds and their sole use for the performance of public service activities in accordance with this Law. The repayment of the unlawfully spent funds of the national public broadcaster is effected by payment to the account of the budget of Montenegro, and the refund of the unlawfully spent funds of the local public broadcaster to the account of the budget of the local self-government unit.

Funds that are not spent for the provision of public services, in accordance with the Contract from Article 9a of this Law, exceeding the amount of 10%, shall be paid to the account of the budget of Montenegro or the budget of the local self-government unit.

(4) If the funds referred to in paragraph 3 of this Article exceed for three years the amount of 10%, the Government and the national public broadcaster, i.e. the local self-government unit and the local public broadcaster shall review the methodology for calculating the funds for services that are the subject of the Contract.

Budget of Montenegro

Article 16

For the RTCG to perform their major activity, the Montenegrin Budget shall annually allocate the funds accounting for 0.3% of the GDP (Gross Domestic Product), the estimate of which shall be done by the Government by adopting the macroeconomic and fiscal policy guidelines.

The way and conditions of providing funds from the Budget of Montenegro may not influence editorial and financial independence and autonomy of RTCG.

The public administration authority in charge of finance shall be under an obligation to disburse the funds referred to in paragraph 1 above to the RTCG, on monthly basis and according to a separate instruction.

The report on disbursing such funds shall be submitted for the purposes of the development of the Montenegrin Budget annual statement of accounts.

Advertising money is a legitimate source of income for public service media in most European countries. In the Western Balkans region, with the exceptions of Albania, where the same rules are in place for both public and commercial media outlets, stricter rules regarding advertising apply to public broadcasters, compared to commercial entities.

The number of minutes of broadcast television devoted to advertising remains a contentious issue in European public policy. Current EU directives limit the amount of advertising on broadcast television to 12 minutes per hour, but 21 of 28 EU Member States' sector regulators impose tighter restrictions. In the UK, for example, public-service broadcasters may not exceed a daily average of 7 minutes per hour (8 minutes per hour during prime time morning and evening hours), with a maximum of 12 minutes per hour in any individual hour; non-PSBs may not exceed a daily average of 9 minutes per hour. In 2016, The European Commission considered amending its 12 minute per hour limit in the face of increased competition from internet television services like Netflix, but ultimately decided to leave to let each country's regulators make such decisions.

Article 92 of the Law on Electronic Media stipulates that the proportion of advertising spots in programmes of public broadcasters within a given clock hour shall not exceed 10% (six minutes). The proportion of advertising spots and teleshopping spots in programmes of public broadcasters within a given clock hour during the day shall not exceed 15% (nine minutes).

Taking into consideration the financially restricted advertising market in Montenegro, as well as the fact that the RTCG enjoys an incomparable advantage (stable and secured financing from the State budget) over its commercial competitors, the recommendation is to additionally refine the advertising regulation by introducing restriction on advertising on PSM in prime time (20.00 – 22.00).

Therefore, the new article should read as follows:

Duration of advertising and teleshopping in programmes of public broadcasters

Article 16a

- (1) The proportion of advertising spots in programmes of public broadcasters within a given clock hour shall not exceed 10% (six minutes).
- (2) The proportion of advertising spots in programmes of public broadcasters within a given clock in prime time hours (20.00 – 22.00) shall not exceed four minutes per hour.
- (3) The proportion of advertising spots and teleshopping spots in programmes of public broadcasters within a given clock hour during the day shall not exceed 15% (nine minutes).

Separate accounting

Article 16a

The RTCG shall be under an obligation to keep the public services delivery accounting separately from commercial audiovisual services delivery accounting.

For more coherence and clarity, the recommendation would be to use the corresponding stipulation from the Law on Electronic Media:

Article 16b

The RTCG shall be obliged to keep separate accounting for the provision of public services from the one for performance of commercial audio or audiovisual services.

Funding of program content with specific purpose

Article 17

This Article shall be deleted. (The Law on Amendments and Supplements to the Law on Public Broadcasting Services of Montenegro (Official Gazette of Montenegro, No. 054/16 of August 15th 2016)).

Using of funds

Article 18

This Article shall be deleted. (The Law on Amendments and Supplements to the Law on Public Broadcasting Services of Montenegro (Official Gazette of Montenegro, No. 054/16 of August 15th 2016)).

Programme transmitting and broadcasting

Article 17

The Montenegrin Budget shall provide funds for the RTCG programmes transmitting and broadcasting by means of terrestrial systems and telecommunication networks without engaging broadcasting frequencies, that shall be performed by a legal entity established by the Government for the purposes of transmitting and distributing broadcast signals.

The public administration authority in charge of media-related affairs (hereinafter referred to as the Ministry) and the legal entity in charge of transmitting and distributing the broadcast signals shall have their mutual rights and obligations concerning the terms and conditions for paying the costs referred to in paragraph 1 above regulated by an agreement within 30 days as of the day of entering into force of the Montenegro Budget Law relevant to a particular year.

Where the Agreement referred to in paragraph 2 above has not been entered into within the set deadline, the rights and obligations concerning the terms and conditions for paying the costs referred to in paragraph 1 above shall be temporarily regulated by a program content regulatory authority.

The RTCG shall bear the costs of their programmes transmitting and broadcasting by satellite systems.

As mentioned in the Introduction chapter, the Council of Europe Recommendation CM/Rec (2012) 1 (February 2012) reads: “The transition from State to public service and from broadcasting to public service media has yet to be successfully completed in many Council of Europe member States. Rethinking and reconstructing their governance systems will be a decisive factor in public service media organisations’ ability to address this and other challenges they are confronted with”. It has already been elaborated on the deficiencies of the current “cascade” model in appointing the key RTCG personnel, which opens a way for a direct political influence/control over the Public Service Media. The Expert has suggested the adoption of the dual governing model, as probably the most efficient governing model in terms of the prevention of the open political interference into the PS remit. In Croatia and Slovenia, for instance, a separate body functions as a supervisor of financial operations at the PSMs. Members of these bodies are appointed mainly by the parliament, but also by self-organised employees at the PSMs.

VI. THE RTCG GOVERNANCE AND MANAGEMENT

RTCG authorities

Article 18

The RTCG’s authorities shall be

1. the RTCG Council,
2. the RTCG Supervisory board
3. RTCG Governing Board and
4. the RTCG General Manager.

Article 19

In a joint session, the RTCG Council and RTCG Supervisory board shall adopt with a 2/3 of the votes the following decisions:

- (1) adopt the Statute of the RTCG, after receiving the opinion of the Governing Board;
- (2) appoint and dismiss members of the RTCG Governing Board, whereat the decision on the appointment is adopted after conducting the public competition;
- (3) give consent to the Contract referred to in article 9a of this law;

- (4) appoint and dismiss RTCG Ombudsman

RTCG Council and RTCG Supervisory Board status

Article 20

The RTCG Council and the RTCG Supervisory board shall represent the public interests in governing the RTCG. .

The Council and the Board shall be independent of both the public administration authorities and all organizations involved in either the activity of producing and broadcasting radio and television programmes or the activities and operations related to them (such as advertising, telecommunications, and alike).

Council's responsibilities

Article 21

The Council shall:

- (1) elect the Chair and the Deputy Chair of the Council from among the Council members, in the manner and procedure prescribed by the Rules of Procedure on the Council Work;
- (2) adopt general regulations that govern the issues of programme and professional standards at RTCG;
- (3) adopt RTCG programme documents;
- (4) upon the prior findings by the Ombudsman, related to the violation of the programme principles determined by the law and programme documents, order appropriate measures to be taken by the Radio of Montenegro director or the Television of Montenegro director;
- (5) at least twice a year publish Bulletin on RTCG activity on RTCG website;
- (6) publish activity plans, activity reports, periodical and annual RTCG accounts, RTCG financial reports for the previous year as well as the reports by the statutory auditor;
- (7) appoint and dismiss the Commission for Programme Content in Albanian Language and in languages of other members of minority peoples and members of national minority communities;
- (8) adopt the Rulebook on Appointing Procedure and Competences of RTCG Ombudsman;
- (9) adopt the Rules of Procedures on its work;
- (10) conduct other business in accordance with the law and the RTCG Statute.

Board's responsibilities

Article 22

The RTCG Governing Board shall:

1. adopt the RTCG periodical and annual accounts;
2. give opinion and consent to RTCG investment and financial plans;
3. give consent to RTCG financial report for the previous year, as well as the statutory auditor report;
4. give opinion and consent to decision on purchase, sale and mortgaging RTCG property, in accordance with the law;
5. give opinion and consent to decisions on taking bank loans and giving financial guarantees, in accordance with the law;
6. adopt the act on the minimum of work process during the employees strike;
7. give consent to changes in budget allocations;
8. adopt the Rules of Procedures on its work;
9. perform also other business pursuant to the law and RTCG Statute.

RTCG operation examination by the public

Article 23

The Council shall be under an obligation to make available

1. The report on RTCG activity for the previous year, with particular reference to the implementation of programme standards and fulfilling obligations determined by the law, by the Contract referred to in article 9a of this Law and activity programme for the previous year,
2. any RTCG previous year's financial operations report comprising the particulars of the use of the funds sourced according to item 1 of paragraph 1 of Article 15 of this Law, with particular emphasis on the obligation referred to in Article 15a of this Law,
3. a certified auditor's report on the RTCG financial operations, by means of posting them on the RTCG Web Site, to be examined by the public.

Not later than 15 days from their conclusion or adoption respectively, the Council shall make available to the public through the RTCG website:

- 1) Contract referred to in article 9a of this law and its amendments;
- 2) annual activity program and financial plan for its execution;

3) opinion of the Council of the independent regulator for the field of audiovisual media (AVM) services on realization of the Contract referred to in article 9a of this law for the previous year.

Submitting the Financial Report to the Parliament

Article 23a

The Council shall submit to the Parliament the report on RTCG financial performance for the previous year as well as the report by the statutory auditor on RTCG financial performance not later than end of June of the current year.

The Council Members number

Article 24

The RTCG Council shall comprise nine members.

Article 25

The RTCG Supervisory Board shall comprise five members. One of the RTCG Supervisory Board members shall be a representative of the RTCG employees.

Requirements for the Council and the Board member appointments

Article 26

The member of the Council and the Board may be an established expert in the field relevant for performing RTCG activities (journalism, law, economics, technical sciences, sociology, marketing, broadcasting etc), who is the citizen of Montenegro, have permanent residence in Montenegro, at least higher education degree and five years of experience in this field.

Conflict of interest

Article 27

1. Parliament Members and Councilors;
2. persons elected, nominated and appointed by the Parliament, the President of Montenegro and the Government;
3. the RTCG staff (with exception of one Board member);

4. party political officials (party presidents, members of presidency, their deputies, members of executive and steering boards, as well as other party officials), for at least two years after cessation of the office;
5. persons who—as holders of stakes, shareholders, managing bodies' members, supervisory bodies' members, staff and alike—have an interest in the legal entities involved in producing radio and television programmes and whose membership of the Council is capable of leading to a conflict of interest;
6. persons who have been pronounced the final judgment for a crime of official misconduct, a crime of corruption or fraud or theft or any other criminal offence that makes such persons unworthy of performing a public function, regardless of the sentence imposed, or persons who have been convicted for any other crime by a final judgment imposing on them to serve an imprisonment lasting for longer than six months, over a period during which legal effects of the conviction exist;
7. persons who are spouses of the persons mentioned in points 1 to 5 herein or are related to them in the straight line regardless of the level of kinship, and in the side line up to the second level of kinship, and by affinity through marriage; may not be members of the Council.

The Council members shall be considered public officials pursuant to the Law on preventing corruption.

Appointment of the Council and the Board

Article 28

The Parliament confirms the appointment of the Council and the Board.

Putting forward nominees for the Council

Article 29

Put forward shall be

1. by the Montenegrin universities: one nominee;
2. by both the Montenegrin Academy of Science and Arts, and Matica crnogorska: one nominee;
3. by national cultural institutions and non-governmental organizations specialized in the field of culture: one nominee;
4. by the Chamber of Economy of Montenegro and the Union of Employers that is represented in the Social Council: one nominee;

5. by non-governmental organizations specialized in the field of media, except for association of broadcasters: one nominee;

6. by non-governmental organizations specialized in the protection of human rights and freedoms, that are active in the exercising and protecting of national, gender and overall equality; the right to have a healthy environment; consumer rights; the rights of persons with disabilities; or the right to education and the right to social protection: two nominees;

7. by the Trade Union that is represented in the Social Council: one nominee;

8. by the Montenegrin Olympic Committee and the National Paralympic Committee of Montenegro: one nominee for the Council members.

A nominee that has been put forward for a member of the Council need not be from among the authorized nominators.

Nominators, referred to in paragraph 1, point 1, 2, 3, 4, 5, and 8 herein, may propose, jointly or separately, one candidate each for the Council member.

The nominator referred to in item 7 of paragraph 1 above may put forward one nominee for a member of the Council.

The nominators referred to in item 6 of paragraph 1 above may each put forward jointly or separately two nominees for member of the Council.

The nominees for the Council members shall be put forward by the managing bodies of the legal entities referred to in paragraph 1 above, according to their respective Articles of Association.

Where the nominators referred to in items 2, 4 and 8 of paragraph 1 above submit their respective proposals, considered shall be the nominators' proposals according to the order of the nominators, whereas, where such proposal does not fulfil the prescribed requirements, the proposal of the following nominator shall be considered.

In the event referred to in paragraph 7 above, in the next Council appointment procedure, the authorized nominators shall change their places.

A proposal comprising more nominees than set out in paragraphs 3, 4 and 5 above shall not be taken into consideration.

Putting forward nominees for the Board

Article 30

The member of the Board may be an established expert in the field relevant for performing RTCG activities (journalism, law, economics, technical sciences, sociology, marketing, broadcasting etc), who is the citizen of Montenegro, have permanent residence in Montenegro, at least higher education degree and five years of experience in this field.

Contents of the nomination for a member of the Council and the Board

Article 31

To a member of the Council- and the Board-relevant nomination shall include the nominee's first and family name, address and a brief CV. The nomination for the Council member must be signed and sealed by an authorized nominator and/or authorized nominators.

The nomination referred to in paragraph 1 above shall mandatorily be accompanied by

1. the proof that proposed candidate is the Montenegrin citizen;
2. an evidence substantiating the nominee's residence in Montenegro;
3. an evidence substantiating the nominee's professional qualifications;
4. the nominee's statement of both the nomination acceptance and the absence of his/her appointment as a member of the Council- and Board-related obstacles referred to in Article 26 of this Law.

In addition to the pieces of evidence referred to in paragraph 3 above, non-governmental organizations acting as nominators for the Council members shall be under an obligation to provide also

1. an evidence substantiating their registration with the Register of Non Governmental Organizations of the competent public administration authority;
2. the Founding Document and the Articles, as given in the text kept by the competent public administration authority;
3. to the three previous years relevant performance reports and financial reports.

If to a member of the Council relevant nomination is not in compliance with paragraphs 1, 2, 3 and 4 above, it shall not be taken into consideration.

Non-governmental organization acting as authorized nominator

Article 32

A non-governmental organization may nominate a nominee for a member of the Council if they meet the requirements as follows:

1. that they have been registered with the public administration competent authority within at minimum three years prior to announcing a public invitation for proposals to nominate a candidate for a member of the Council;

2. that their founding documents and charter list their activity major goals and tasks involved in the matters falling within the framework of the areas set out by items 3, 5 and 6 of paragraph 1 of Article 28 of this Law and that over the previous three years they have been continuously engaged in the said matters.

In putting forward a nominee for a member of the Council, one non-governmental organization may participate only within one category of nominators referred to in paragraph 1 of Article 28 of this Law.

Council member independence

Article 33

The Council members shall not represent the institutions or the organizations that have put them forward as nominees, but they shall be under an obligation to perform their duties autonomously, independently and at their knowledge and bona fide, for the purposes of achieving the public interests, according to the Law, the RTCG's Articles and other general documents.

Nobody shall be entitled to influence in any manner the activity of any member of the Council, nor shall be any member of the Council under an obligation to follow anybody's instructions in relation to his/her working, except where a court decision exists.

Council and Board term of office

Article 34

The term of office of the Council and the Board shall start with the day of the appointment confirmation and it shall last for five years.

The same person may serve only twice as a member of the Council and the Board.

It shall be deemed that the Council has been nominated where there are at minimum seven nominees for the Council members.

It shall be deemed that the Board has been nominated where there are at minimum four nominees for the Council members.

During appointment of the first Council composition, four members shall be elected for five years, three members for four years, and two members for three years.

During appointment of the first Board composition, two members shall be elected for five years, two members for four years, and one member for three years.

The term of office of the members of the first Council and Board composition shall be determined by the Parliament Speaker with a draw in the presence of the representatives of the authorized nominators.

Council and Board member appointment procedure initiating

Article 35

The Council and Board member appointment procedure initiating shall be by the Parliament Speaker, by means of announcing a public invitation to the authorized nominators, whereas within at minimum six month prior to the current Council and Board term of office cessation.

Public invitation

Article 36

A public invitation for the Council members shall be announced to the authorized nominators by publishing it in the Official Gazette of Montenegro, on the Parliament's Web Site and at minimum in one two daily print media in circulation within Montenegro.

A public invitation for the Board members shall be announced to the general public by publishing it in the Official Gazette of Montenegro, on the Parliament's Web Site and at minimum in two daily print media in circulation within Montenegro.

Public invitation contents

Article 37

A public invitation shall mandatorily include

1. the authorized nominators and the number of nominations they are allowed to submit;
2. requirements that a nominee for a member of the Council must fulfil;
3. the requirements that must be met by non-governmental organizations acting in the capacity of the authorized nominators;
4. the documents that shall mandatorily be supplied along with the nomination;
5. the name and the address of the authority to which nominations shall be submitted;
6. the submission manner and the deadline for nomination submitting.

Submitting of Nominations

Article 38

A nomination for a member of the Council and the Board shall be within the deadline that starts as of publishing an invitation in a daily print media.

Nominations for candidates for Council and Board members shall be submitted to the Council of the independent regulator for the field of electronic media not later than 40 days from the day of publishing public invitation.

List of nominees for the Council and the Board members

Article 39

Council of the independent regulator for the field of electronic media shall publish the list of all applicants with completed and timely submitted proposals for the Council and the Board members, in the same manner in which the public invitation was published, within eight days from the date of expiry of the proposals submission deadline.

If nominators for Council member referred to in article 28 paragraph 1 points 1,3,5,6 submit more than one separate nomination, the Council of the independent regulator for the field of electronic media shall give its opinion on candidates for Council member from these categories, based on the following criteria:

- 1) curriculum vitae and experience based on which it could be established they stand out in public life with advocating protection of the freedom of media and expression, respecting democratic principles and rule of law, building and advancing values of the constitutional order of Montenegro, development of civil society, defending human rights and freedoms, promotion of culture, science or art;
- 2) interview based on which it could be established the candidate has the vision of the state and development of RTCG, as well as of their specific contribution to fulfilling the mission of RTCG as the national public broadcaster;
- 3) number and relevance of the registered non-governmental organizations supporting the candidacy.

The Council of the independent regulator for the field of electronic media shall submit completed and timely proposals for a Council member, as well as opinion on candidates referred to in paragraph 2 herein to the parliamentary committee competent for the field of media, within 20 days from the date of expiry of the proposals submission deadline.

Within 20 days from receiving the proposal referred to in paragraph 3 herein, the parliamentary committee competent for the field of media shall conduct interviews with the Council and Board members' candidates referred to in paragraph 2 herein, and based on it and on the opinion of the Council of the independent regulator for the field of electronic media shall determine the proposal of candidates from these categories.

Within 30 days from receiving the proposal referred to in paragraph 3 herein, the parliamentary committee competent for the field of media shall determine the proposal of the Council nomination list, and conduct the public presentation of candidates from the proposed list and publish the candidates' qualifications on the Parliament's website.

The parliamentary committee competent for the field of media shall submit the proposal of the Council and the Board members' nomination list, with the reasoning and report on the procedure conducted, to the Parliament for deciding.

Proposal list determination

Article 40

Within 60 days as of the day of tabling the documents referred to in paragraph 6 of Article 37 of this Law, the Parliament shall undertake to make their determination of the proposal list for the Council and the Board appointment.

The Parliament shall decide simultaneously on the whole Council and Board nomination proposal list, namely confirming or not confirming the whole list.

The Parliament shall publish the reasoned decision referred to in paragraph 2 herein in the Official Gazette of Montenegro and on the Parliament's website. Administrative dispute may be initiated against the decision referred to in paragraph 3 herein, within 20 days from the day of delivery.

Re-proceeding

Article 41

If a proposal list is not complete, the Council member appointments procedure shall be repeated on the category of nominators whose nomination was not adopted.

In the event referred to in paragraph 1 above, the Parliament Speaker shall be under an obligation to publish—within 15 days as of the day of approving a proposal list concerned—the repeated public invitation to the authorized nominators whose nominations were not adopted, in the manner as set out by this Law.

Any member of the Council, who has been appointed upon the repeated public invitation, shall last until the Council term of office termination, in harmony with paragraph 1 of Article 32 of this Law.

Council and Board member remunerations

Article 42

Any member of the Council and the Board shall be entitled both to receive monthly remuneration for his/her engagement in the Council and the Board activities, where such remuneration shall be the gross amount of an average gross wage paid to the RTCG staff in a month preceding the remuneration payment as well as the reimbursement of expenses incurred during performing the duties of a member of the Council and the Board, according to the RTCG Articles.

Council and Board member's term of office cessation

Article 43

The Council and the Board members' term of office may terminate only in the procedure set out by this Law and due to the reasons as follows:

1. upon expiration of time for which the member was appointed;
2. upon the member release from the duty, due to reasons provided for by the law;
3. upon tabling to the Parliament the written resignation, about which mandatory notification shall be served to the Council and the Board and to the authorized nominator (for the Council members) concerned within eight days;
4. upon the member's death.

Council and Board member release from duty

Article 44

The Parliament shall release from duty a member of the Council and the Board, and they shall appoint another member to the Council and the Board where

1. it has been found that the former member presented false particulars of him/herself or failed to present particulars and circumstances of importance to the appointment;
2. such member has not participated in the Council and the Board meetings for a period longer than six months;
3. during his/her term of office, any of the circumstances set out by Article 26 of this Law took place;
4. such member is ill, as said by the competent health care institution findings as well as he/she is not in situation to perform the duties of a member of the Council and the Board for a period longer than six months.

Council and Board member release from duty procedure

Article 45

The Council and the Board member release from duty procedure may be initiated by either the Council and the Board or the parliamentary committee competent for the field of media.

After the conducted procedure in which all relevant circumstances have been established and in which the Council and the Board member against whom the procedure was instituted has been provided with an opportunity to give his/her points relating to all the circumstance, the Parliament may make a decision to release such Council and Board member from the duties.

The Parliament shall publish the reasoned decision referred to in paragraph 2 herein in the Official Gazette of Montenegro and on the Parliament's website. Administrative dispute may be initiated against the decision referred to in paragraph 3 herein, within 30 days from the day of delivery.

A new member appointment to the Council and the Board

Article 46

Where the Council and the Board member's term of office expires prior to the time for which the member was appointed to the Council and the Board, the Parliament Speaker shall be under an obligation to publish—within 15 days as of the day of the term of office termination—a public invitation to the authorized nominators to put forward a new nominee for the position of the member concerned in the Council and in the Board.

The nominee for a member of the Council and the Board referred to in paragraph 1 above shall be accordingly subject to the provisions of this Law regulating the Council and the Board member appointment.

The Council and the Board newly appointed member's term of office shall last until the termination of the term of office of the Council and the Board member he/she replaces.

The Council and the Board member who—according to items 1 and 2 of Article 42 of this Law—was released from the duties prior to his/her term of office expiration may be re-appointed to the Council and the Board.

Transparency of PSM governing bodies

A lack of transparency of the PSM governing bodies is reported in most of the countries in the Western Balkans region. Their decisions and minutes of their meetings are rarely available, in some cases only upon request and reference to the laws on access to information of public character, or they are published on the PSM websites sporadically and after a delay. The same applies to the RTCG governing bodies, as well. In some countries in the wider neighbourhood (such as in Croatia and Slovenia) the minutes and press releases are regularly published on the PSM website for the Programming Council, but not for the Supervisory Board.

In Slovenia, the PSM website in the section on the Programming Council and the Supervisory Board has published the names of all members, e-mail addresses of both governing bodies, agendas for all meetings and decisions taken at all sessions of both governing bodies since 2006, after the adoption of the latest

law on RTV Slovenia. In addition to that, live streaming of all sessions of the Programming Council has been provided on the PSM website since 2015, on the initiative of the most recent council.

Following higher standards, the RTCG governing bodies' activities (including the minutes of the Council and Board's meetings) should be regularly published on the RTCG website.

Council and Board operation

Article 47

The Council and the Board shall operate in their meetings.

The Council and the Board meetings shall be held as needed, whereas at minimum monthly.

The Council and the Board meeting shall mandatorily be convened upon the request of at minimum three members of the Council and the Board respectively or by the RTCG managing Director.

The Council and the Board decisions shall be made by the majority vote of the members present, unless otherwise has been provided for by this Law or the RTCG Articles for certain matters.

The Council and the Board meetings shall be public, unless otherwise has been decided by the majority of two thirds of the Council and the Board members.

The Managing Director and the Radio Montenegro and the television of Montenegro's respective Directors shall be entitled to participate in the Council and the Board meetings, without the right to vote..

The Council and the Board may decide—by the majority of two thirds of the members present—to exclude from the work the persons referred to in paragraph 6 above.

Participating in the Council and in the Board operation shall be regulated by the Council and the Board Rules of Procedure.

Minutes of the Council and the Board meetings should be published on the RTCG website within five working days after the meeting was held.

The RTCG Governing Board Competences

Article 48

RTCG Governing Board shall:

1. adopt the RTCG plans of activities, reports on activities and periodical and annual accounts;
2. adopt RTCG investment and financial plans;
3. adopt RTCG financial report for the previous year;

4. select the statutory auditor of periodical and annual accounts;
5. adopt general act on internal organization and systematization of work positions in RTCG;
6. adopt decision on purchase, sale and mortgaging RTCG property, in accordance with the law;
7. adopt decisions on taking bank loans and giving financial guarantees, in accordance with the law;
8. adopt the act on the minimum of work process during the employees strike;
9. give consent to director general decisions and contracts obliging RTCG to execute payment in the total amount higher than the amount determined by the RTCG Statute;
10. give consent to changes in budget allocations;
11. adopt the Rules of Procedures on its work;
12. perform also other business pursuant to the law and RTCG Statute.

The RTCG Governing Board shall take care that the public funds for RTCG work are used in accordance with the law and the contract, in the public interest.

Not later than end of April of the current year, the RTCG Governing Board shall submit to the Council and the Supervisory Board activity plans, activity reports, RTCG periodical and annual accounts, reports on the RTCG financial performance for the previous year, RTCG investment and financial plans, financial report for the previous year, as well as statutory auditor report

Number of the RTCG Governing Board Members

Article 48a

The RTCG Governing Board shall have five members.

The RTCG Governing Board Term of Office

Article 48b

The RTCG Governing Board term of office shall start with the day of appointment and shall last for five years.

The same person may be appointed to be the RTCG Governing Board member not more than two times.

Criteria for the RTCG Governing Board Member

Article 48c

The RTCG Governing Board member may be established expert with at least 10 years of experience on the field of finance, economics or law, who is citizen of Montenegro, with the permanent residence in Montenegro and at least higher education degree.

Article 26 of this law shall be applied to candidates for election of members of the RTCG Governing Board.

The RTCG Governing Board Appointment

Article 48d

The RTCG Council shall appoint RTCG Governing Board, based on public competition.

Dismissal of the RTCG Governing Board member

Article 48e

The Council shall dismiss the RTCG Governing Board member and appoint the other one, if:

- 1) he should submit a request for dismissal;
- 2) it is established that he gave false details on himself during appointing procedure or failed to reveal details or circumstances significant for appointment;
- 3) one of the circumstances referred to in article 26 of this Law should occur during the term of office;
- 4) he should not attend the RTCG Governing Board sessions for longer than six months;
- 5) for the reason of illness based on the findings of a competent health institution he should not be able to perform the duties of the RTCG Governing Board member for longer than six months;
- 6) he should not fulfil regularly obligations determined by the Rules of Procedure on the Governing Board Work;
- 7) he should act contrary to this law and RTCG general acts.

The RTCG Governing Board member must be given an opportunity to comment on reasons for dismissal before the decision on dismissal is adopted.

Remunerations to the RTCG Governing Board Members

Article 48f

The RTCG Governing Board members have the right to a monthly gross remuneration in the amount of the average gross salary of the RTCG employees in the month preceding the remuneration payment, as

well as to the reimbursement of expenditures related to performing the duty of the RTCG Governing Board member, pursuant to the RTCG Statute.

RTCG Managing Director

Article 49

A national of Montenegro with his/her residence in Montenegro, who holds at minimum both an academic degree and ten years of work experience shall be appointed as the RTCG Managing Director.

Article 50

A public invitation for the Managing Director position shall be announced by publishing it in the Official Gazette of Montenegro, on the Parliament's Web Site and at minimum in two daily print media in circulation within Montenegro.

A nomination for the Managing Director position shall be within the deadline that starts as of publishing an invitation in a daily print media.

Nominations for candidates shall be submitted to the Council of the independent regulator for the field of electronic media not later than 40 days from the day of publishing public invitation.

List of nominees for the Managing Director

Article 51

Council of the independent regulator for the field of electronic media shall publish the list of all applicants with completed and timely submitted proposals for the Managing Director position, in the same manner in which the public invitation was published, within eight days from the date of expiry of the proposals submission deadline.

The Council of the independent regulator for the field of electronic media shall submit completed and timely proposals for the Managing Director position, as well as opinion on candidates, to the parliamentary committee competent for the field of media, within 20 days from the date of expiry of the proposals submission deadline.

Within 20 days from receiving the proposal referred to in paragraph 3 herein, the parliamentary committee competent for the field of media shall conduct interviews with the Managing Director candidates, and based on it and on the opinion of the Council of the independent regulator for the field of electronic media shall determine the proposal of candidate.

Within 30 days from receiving the proposal referred to in paragraph 3 herein, the parliamentary committee competent for the field of media shall determine the proposal of the nomination list, and conduct the public presentation of candidates from the proposed list and publish the candidates' qualifications on the Parliament's website.

The parliamentary committee competent for the field of media shall submit the proposal of the Managing Director candidates, with the reasoning and report on the procedure conducted, to the Parliament for deciding.

The Managing Director should be elected by the members of Parliament by the qualified majority of votes.

Article 52

The Parliament shall publish the reasoned decision in the Official Gazette of Montenegro and on the Parliament's website. Administrative dispute may be initiated against the decision within 20 days from the day of delivery.

Re-proceeding

Article 53

If no candidate is selected, the Managing Director appointments procedure shall be repeated.

In the event referred to in paragraph 1 above, the Parliament Speaker shall be under an obligation to publish—within 15 days as of the day of approving a proposal list concerned—the repeated public invitation, in the manner as set out by this Law.

Article 54

The Managing Director shall

1. represent and act for the RTCG;
2. arrange and manage the work process as well as run the RTCG operations;
3. be responsible for the RTCG operations and the regulatory compliance thereof;
4. put forward a general document regulating the RCTG programme and professional standards;
5. put forward the RTCG programme documents;
6. propose a general document regulating the RTCG internal organization and job classification;
7. put forward the RTCG work plan;
8. submit the RTCG performance reports and quarterly and annual accounts;
9. submit the RTCG financial statements of the previous year;
10. upon the council consent, enter with the Government into the Agreement referred to in Article 9a of this Law;
11. take care of program documents and professional standards implementation within the RTCG;
12. appoint and discharge the Radio Montenegro and the Television of Montenegro's respective Directors as well as the RTCG other managing staff;

13. put forward general documents regulating the minimum work during a strike;
14. make proposal decision to purchase and sale of assets and to mortgage the RTCG assets as well as to take bank loans and issuing financial guarantees, according to the law;
15. perform also other duties according to the law and the RTCG Articles.

The Managing Director's term of office shall be four years.

One person may be appointed as the Managing Director only twice consecutively.

A person that may not be a member of the Council according to this Law neither may be appointed as the Managing Director.

The nominees for the Managing director position shall not be subject to the provisions of item 3 of paragraph 1 of Article 26 of this Law.

The Radio Montenegro and the Television of Montenegro's directors

Article 55

The Radio Montenegro and the Television of Montenegro's respective Directors shall be appointed to and released from the duties by the RTCG Managing Director.

A Montenegrin national whose residence is in Montenegro and who holds at minimum both an academic degree and five years of media work experience may be appointed as the Radio Montenegro Director or the Television of Montenegro Director.

Any person who may not serve as a member of the Council according to this Law neither may be appointed as the Radio Montenegro Director or the Television of Montenegro Director.

The Radio Montenegro Director and the Television of Montenegro Director shall be appointed to serve for four years, and they may be re-appointed as well.

The nominees for the appointment as the Radio Montenegro Director or the Television of Montenegro Director shall not be subject to the provisions of item 3 of paragraph 1 of Article 26 of this Law.

The Radio Montenegro Director and the Television of Montenegro Director authorities respectively

Article 56

The Radio Montenegro Director and/or the Television of Montenegro Director shall

1. represent and act for the Radio Montenegro and/or the Television of Montenegro, within the framework of their respective responsibilities;

2. put forward the Radio Montenegro and/or the Television of Montenegro programme orientation and shall be accountable to the Council for the implementation thereof, according to the law and the RTCG Articles;
3. take care of the Radio Montenegro and/or the Television of Montenegro adopted work plans implementation ;
4. take care of the compliance with the provisions of this Law, where such provisions regulate the programme contents;
5. appoint to and release from the duties the Radio Montenegro and/or the Television of Montenegro programme editor;
6. put forward the Radio Montenegro and/or the Television of Montenegro internal organization and job classification document to the Managing Director;
7. enter into contract on work with the staff of the Radio Montenegro and/or the Television of Montenegro, according to the RTCG Articles and general documents on internal organization and job classification;
8. enforce the Petitions and Complaints Commission decisions; 9. perform also other duties as set out by the RTCG Articles.

The RTCG Managing Director, the Radio Montenegro Director and the Television of Montenegro Director

Article 57

The RTCG Managing Director, the Radio Montenegro Director and the Television of Montenegro Director may be released from their respective duties prior to the expiration of the time for which they were appointed to serve as such,

1. upon their own request;
2. where they are not acting according to the law and the RTCG general documents;
3. where by their mala fide and improper acting they cause serious damaging effects on the RTCG.

Prior to making a decision to have the RTCG Managing Director, the Radio Montenegro Director and the Television of Montenegro Director released from the duties, they must be given an opportunity to state their particular points relating to the release reasons.

Acting director appointment

Article 58

Where the RTCG Managing director has been released from the duties, the Council shall nominate an acting managing director for the RTCG to serve for a six-month period and/or pending the RTCG Managing Director appointment.

Where the Radio Montenegro and/or the Television of Montenegro Director has been released from the duties, the RTCG Managing Director shall nominate an acting director for the Radio Montenegro and/or for the Television of Montenegro.

Criteria for RTCG Ombudsman

Article 58a

RTCG Ombudsman may be an established media expert with a minimum of 10 years of experience in the electronic media, who is a permanent resident of Montenegro, who is the citizen of Montenegro and has at least the higher education degree.

A person who may not be the RTCG Council member may not be appointed as Ombudsman.

The provision of article 26 paragraph 1 point 3 of this law shall not be applied to candidates for ombudsman appointment.

Ombudsman's Competences

Article 58b

The RTCG Ombudsman is independent in his work.

Ombudsman shall:

- 1) consider petitions and complaints from listeners, viewers and users of RTCG portal;
- 2) consider violation of human rights and discrimination of any kind in broadcasted programme contents;
- 3) monitor respecting of RTCG programme principles;
- 4) monitor respecting citizens' right to freedom of speech, right to accessibility of media, right to accurate and verified information, right to correction;
- 5) submit quarterly reports on his activity to the RTCG Council;
- 6) perform his competences according to the Rulebook on the RTCG Ombudsman Appointment Procedure and Competences, adopted by the Council;
- 7) give recommendation to the RTCG editorial staff and represent a mediator in a twoway communication between media and the public;

Ombudsman's reports and recommendation shall be published on the RTCG website, after informing the Council.

RTCG Ombudsman's Term of Office

Article 58c

The RTCG Ombudsman's term of office shall start with the day of the appointment confirmation and it shall last for three years

The same person may be appointed to be Ombudsman not more than two times.

Appointment of the RTCG Ombudsman

Article 58d

The RTCG Council and the Supervisory Board shall appoint on the joint session the Ombudsman for RTCG services users, based on public competition.

Dismissal of Ombudsman

Article 58e

The RTCG Council and the RTCG Supervisory Board shall dismiss the Ombudsman in a joint session if:

- 1) he should submit a request for dismissal;
- 2) it should be established that he gave false details on himself during appointing procedure or failed to reveal details or circumstances significant for the appointment;
- 3) one of the circumstances referred to in article 26 of this Law should occur during the term of office;
- 4) he should not fulfil regularly obligations determined by the Rulebook on the RTCG Ombudsman Appointment Procedure and Competences
- 5) if he should act contrary to this Law and RTCG general acts
- 6); for the reason of illness based on the findings of a competent health institution he should not be able to perform the duties of the RTCG Ombudsman for longer than six months;
- 7). In other cases prescribed by the Statute.

The RTCG Ombudsman must be given an opportunity to comment on reasons for dismissal before the decision on dismissal is adopted.

VII. ARTICLES

The RTCG Articles contents

Article 59

The RTCG Articles shall mandatorily include the provision regulating

1. the RTCG registered office;
2. the RTCG internal organization;
3. the RTCG's bodies and the persons holding special authorities respective methods of operating and decision making and responsibilities;
4. the procedure for determining listeners and viewers' petitions and complaints regarding the RTCG operation;
5. method of publishing the RTCG Operation Bulletin, financial plans, income and expense accounts and other documents and pieces of information that—according to this Law—the RTCG shall mandatorily present to the public;
6. the method of determining and using the funds by certain organizational units within the RTCG.
7. manner of conducting and conditions of public competition for appointing the Governing Board members;
8. manner of conducting and conditions of public competition for appointing the Ombudsman.

The RTCG Articles shall comprise also the provisions regulating other matters, according to the law.

VIII. THE RTCG ASSETS

Ownership right

Article 60

The RTCG assets shall be the state-owned ones, whereas it shall mean the ownership of the movable and immovable things, moneys and securities and other ownership rights.

The RTCG shall be held liable with all their assets.

The government shall jointly and severally and without a limitation shall be held accountable for the RTCG liabilities.

The RTCG may not—without the Council consent—encumber any real and other property of the value exceeding the one set out by the RTCG Articles

The draft Law on RTCG, Consolidated text

The Radio and Television of Montenegro National Public Broadcaster Law's consolidated text comprises the pieces of legislation as follows: 1. The Radio and Television of Montenegro National Public Broadcaster Law (Official Gazette of Montenegro, No. 079/08 of December 23rd 2008), 2. The Law on Amendments and Supplements to the Law on Public Broadcasting Services of Montenegro (Official Gazette of Montenegro, No. 045/12 of August 17th 2012), 3. Montenegro Constitutional Court Ruling No. U-I br. 25/12 of March 31st 2016 (Official Gazette of Montenegro, No. 043/16 of July 20th 2016), 4. The Law on Amendments and Supplements to the Law on Public Broadcasting Services of Montenegro (Official Gazette of Montenegro, No. 054/16 of August 15th 2016) that include their entering into force dates respectively indicated.

THE LAW ON RADIO AND TELEVISION OF MONTENEGRO NATIONAL PUBLIC BROADCASTER

(Official Gazette of Montenegro, Nos.: 079/08 of December 23rd 2008; 045/12 of August 17th 2012; 043/16 of July 20th 2016; 054/16 of August 15th 2016)

I. BASIC PROVISIONS

Subject matter of the Law

Article 1

A national public broadcaster shall perform their activity according to the law and international standards and rules of the profession.

This law should be interpreted in accordance with the provisions laid down by law, regulation or administrative action concerning the provision of audiovisual media services (Audiovisual Media Services Directive), principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms, using the practice of the precedent law of the European Court of Human Rights he coordination of certain

Radio and Television of Montenegro

National Public Broadcaster

Article 2

Radio Montenegro and Television of Montenegro shall be Radio and Television of Montenegro National Public Broadcaster.

Providing public audiovisual services for which Montenegro shall ensure independent financing according to both the law and the state aid rules intended for broadcasting services shall be the activity of the National Public Broadcaster referred to in paragraph 1 above.

Providing public audiovisual services that meet the democratic, social, cultural, educational, and other needs of public interest to all segments of Montenegrin society; ensuring that the field of informing-related rights and interests are exercised by citizens and other entities regardless of their political, religious and cultural affiliations, race or gender shall be the activity of the National Public Broadcaster referred to in paragraph 1 above.

Radio and Television of Montenegro

Article 3

The public enterprise Radio and Television of Montenegro shall be the Radio and Television of Montenegro National Public Broadcaster.

The State shall be considered as the Founder of the public enterprise Radio and Television of Montenegro.

The public enterprise's abbreviated designation shall be RTCG.

The RTCG's registered office shall be in Podgorica.

According to the law, the RTCG Council shall exercise the Founder's rights, on behalf of the State.

II. RTCG's ACTIVITIES

Exercise of public interest

Article 4

Public broadcasters shall produce and transmit radio and/or television broadcasts and multimedia content with information, cultural, art, educational, scientific, children's, entertainment, sport and other programmes ensuring the exercise of rights and interests of citizens and other entities in the information sector.

(2) The exercising of public interest, in terms of this Law, means to:

- 1) autonomously and independently produce, edit and transmit programmes and multimedia content not in the service of political, economic or other levers of power;
- 2) inform the public in an objective and timely fashion of political, economic, cultural, educational, scientific, sport and other major events and occurrences in the country and abroad;
- 3) produce and transmit programmes and multimedia content intended for different groups in society, free of discrimination, particularly taking into account specific societal groups such as children and the young, members of minority nations and other minority communities, persons with disabilities, socially and health disadvantaged groups, etc; 4) cherish public communication culture and linguistic standards;
- 5) produce and transmit programmes and multimedia content expressing Montenegrin national and cultural identity, and cultural and ethnic identity of minority nations and other minority communities;
- 6) produce and transmit programmes and multimedia content in languages of minority nations and other minority communities within the areas where they reside;
- 7) during election campaigns, based on special rules, ensure equal representation of political parties, coalitions and candidates whose candidacy and candidate lists have been approved;
- 8) mutually cooperate and exchange programmes of interest for the citizens of Montenegro.

The major activity performing

Article 5 (4)

The RTCG's major activity shall be delivering public audiovisual services (hereinafter referred to as the public services), i.e. the production of radio, audiovisual and multimedia programmes, music production, delivering audio and audiovisual media services, multimedia services and electronic publishing as public services.

The activities referred to in paragraph 1 above shall be performed by the RTCG through

1. broadcasting two programmes of the Radio of Montenegro through the terrestrial network of the broadcasting transmitters at the national level;
2. the Television of Montenegro's two national programmes broadcasting by means of a terrestrial broadcasting network;
3. broadcasting the Parliamentary programme;
4. the radio programmes broadcasting by means of a satellite;
5. the television programmes broadcasting by means of a satellite;
6. audio and audiovisual programme content producing and their broadcasting on the Internet Portal;

7. public music performances and their recording/shooting; arranging events and concerts of national importance; and
8. producing other programme services
9. offering the provision of AVM service on request

The RTCG may also both produce other audio and audiovisual programmes and circulate them by means of terrestrial and satellite networks, the Internet and other transmission ways.

Audio and audiovisual contents circulated through the Internet portal must follow the RTCG programme contents, and the RTCG editorial standards

The RTCG programme receiving must be provided by each radio and television network respectively to the population within at minimum 85% of the Montenegro's territory.

Delivering commercial audiovisual services

Article 6 (5)

Besides the public services referred to in paragraph 1 of Article 4 of this Law, the RTCG may deliver also commercial audiovisual services such as:

1. sale of programmes intended for advertising messages and other audiovisual communications;
2. products placement, as stipulated in Article 6b
3. sponsorship;
4. teleshopping;
5. rebroadcasting of programmes;
6. distribution of programmes (assignment of the rights to broadcasting programmes, selling of programmes); and
7. renting out of the technical and production and logistical resources, as AV services.

Delivering the services referred to in paragraph 1 above must be done independently of delivering the public services referred to in Article 4 of this Law.

Article 6b

Product placement

Product placement shall be prohibited.

By way of derogation from paragraph 1, product placement shall be admissible:

- 1) in cinematographic works, films and series made for AVM services, sports programmes and entertainment programmes not including programmes intended for children;
- 2) where there is no payment but only the provision of certain goods or services free of charge, such as production props and prizes, with a view to their inclusion in a programme.
- (3) Product or service placement, in accordance with item 2 of paragraph 2 above, shall be deemed to mean inclusion into programmes solely of goods or services of substantial value.
- (4) By a separate document, Council shall regulate the manner for determining the substantial value of goods or services placed, taking into account that value is determined in relation to the production costs or costs payable for placing goods or services into the programme.
- (5) Programmes that contain product placement shall meet the following requirements:
 - 1) their content, and their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the AVM service provider;
 - 2) they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services or by giving prominence to the product;
 - 3) viewers shall be clearly informed of the existence of product placement by appropriate identification at the start and the end of the programme and after an advertising break, in order to avoid any confusion on the part of the viewer.

Change of the major activity

Article 7(6)

Neither the major activity changes nor the RTCG privatization may be approached to without a consent given by the Parliament of Montenegro (hereinafter referred to as the Parliament).

Internal organization

Article 8(7)

The RTCG shall determine the internal organization and method of operation, according to both the law and the Articles.

The RTCG shall have two operational and organizational units, namely the Radio of Montenegro and the Television of Montenegro.

The organizational units' responsibilities in legal transactions shall be defined by the RTCG Articles, according to the law.

III RTCG'S OBLIGATIONS AND RESPONSIBILITIES

Services of public interest

Article 9

The public services referred to in paragraph 1 of Article 4 of this Law shall be the programme-related RTCG's obligations that meet the democratic, social and cultural needs of the Montenegrin society and that guarantee pluralism, including also cultural and language diversity, whereas—along with applying high standards of both professional ethics and quality, while without any form of discrimination—the RTCG shall be under an obligation to produce and broadcast the programme contents that

1. serve as reference points in terms of strengthening collectiveness and social integration of all individuals, groups and communities;
2. in a balanced manner and with appropriate representation of informative, cultural, educational, scientific, sport and entertaining programmes, meet public interests on both national and local level;
3. ensure a space for open and free expression of different opinions and positions on issues of public interest;
4. are intended for all segments of the society, while paying particular attention to children and youth, members of ethnic minorities and other national minority communities, disabled persons, socially vulnerable and other specific groups;
5. make recognized and cherish the Montenegrin national and cultural identity, respective ethnic minorities and other national minority communities' cultural and ethnic identities, European cultural heritage and cultural diversity;
6. make recognized the Montenegrin cultural heritage, encourage and cherish cultural and artistic creation, and disseminate the knowledge about different cultures living in Montenegro;
7. reflect different ideas and religious convictions existing within the society, with the aim of strengthening understanding and tolerance and promoting multicultural, multiethnic and multi-confessional character of Montenegro;
8. contribute to the respect for and the progress of fundamental human rights and freedoms, democratic values and institutions, and pluralism of ideas, public dialogue culture, linguistic standards, privacy and dignity of individuals;
9. encourage the development and progress of the society's democratic culture;

10. promote and support the civil society values and present civic initiatives;
11. fairly, truly, timely, intelligibly and objectively inform about national and international events of public interest;
12. reflect the actual life challenges typical of different structures of the Montenegrin society;
13. present and make recognized historical sources and material facts telling about history;
14. publicize both the development and the ecological character of Montenegro;
15. inform the public about the matters of importance to human health and protection as well as of the property, cultural assets and environmental protection;
16. ensure production and presenting the Montenegrin cinematography and audiovisual opuses;
17. during an election campaigning, while according to special rules, ensure balanced presentation of political factions, collations and individuals.

Public services delivery Contract

Article 9a

The programme-related obligations referred to in Article 9 of this Law as well as the amount and source of funds for financing them shall be stipulated by a contract entered into by the Government of Montenegro and the RTCG (hereinafter referred to as the Contract).

The Contract shall be entered into for a five-year period, according to the macroeconomic and fiscal policy guidelines.

Prior to entering into the Contract, the RTCG shall undertake both to prepare the RTCG's programme-related obligations and to hold a public 45-day long discussion about it so that the public can give their opinion on whether the proposed programme related obligations meet the criteria laid down by Article 9 of this Law.

The Contract shall define the type and scope of all public services delivered by the RTCG, in term of Article 9 of this Law.

Besides the programme-related obligations set out in Article 9 of this Law, the Contract shall identify programme contents intended to science, education and culture development; informing the persons with hearing and visual impairment as well as the programme contents in the Albanian Language and in the languages spoken by the members of ethnic minorities and other national minority communities.

The amount of funds intended for delivering the public services set out in the Contract must not exceed net costs that are required for delivering such services, taking into account other direct and indirect

income resulting from the services delivering. During calculating the net costs of the public services delivering, taken into account shall be the net proceeds from all commercial audiovisual services related to the services concerned.

The RTCG shall be under an obligation to table the Contract in the form of a proposal to the Government of Montenegro (hereinafter referred to as the Government), at latest within six months prior to the effective Agreement expiration.

The Contract and its amendments shall be submitted for insight to the independent regulator for the field of electronic media not later than 15 days since its execution.

At latest by December 31st of any current year and based on the Contract, whereas for the next year, the RTCG shall mandatorily develop an action plan and financial plan that will set out the activities and the programme-related obligations as well as the funds for their realization.

Where the Contract is changed in terms of the RTCG's programme-related obligations, it shall be required to approach to the procedure referred to in paragraph 3 above.

The Contract content

Article 9b

The Contract shall list the public services that the RTCG shall be required to deliver within the stipulated time period as well as their respective types; purposes; programme grounds; the respective numbers of the radio and television programmes; designations of the RTCG's Internet sites and portals respectively; and the requirements to be met for other public services delivery, taking into account both the public needs and the electronic media technology development needs.

The Contract shall set out the method of financing the public services delivered by the RTCG, per years and sources, accompanied by the account of costs per years and types; the powers and responsibilities of the RTCG's authorities relative to the management of all funds projected for the Contract performance; and reporting about the Agreement performance.

The Contract's provisions setting out the financing in terms of paragraph 2 above must be in compliance with the state aid rules relating to the public broadcasting services.

New services introduction

Article 9c

RTCG may introduce significantly new audio-visual services on new distribution platforms that are intended for broader public providing they satisfy democratic, social and cultural needs of society and

shall not lead to disproportional consequences on the market that are not necessary for fulfilling the public service function.

For the purpose of paragraph 1 herein, a significantly new audio-visual service is considered the service that is provided for the first time and it is significantly different from the services provided by the RTCG, as well as a service that is substantially changed with respect to its content, technical preparedness, approach and the intended target group.

The proposal to introduce a significantly new audio-visual service or more such services shall contain precise description of services and justification of its introduction, the target group that the services are related to, the costs of providing services and assessment of possible impacts on market competition.

Before introducing a significantly new audio-visual service or more such services the RTCG shall organize public debate in accordance with article 9a of this Law.

After conducting the public debate referred to in paragraph 4 herein, the RTCG director general shall submit the proposal to introduce a significantly new audio-visual service or more such services for opinion to the authority responsible for protection of competition, related to possible impacts of a significantly new audio-visual service or more such services on competition at the relevant market.

The director general shall submit the comments and suggestions received through the public debate, as well as the opinion of the authority responsible for protection of competition, to the Council of the independent regulator for the field of electronic media. The RTCG Council shall decide on introducing a significantly new audio-visual service or more such services, after it receives the licence and consent from the Council of the independent regulator for the field of electronic media.

Oversight of the Contract Implementation

Article 9d

Oversight of the Contract implementation, in the part related to programme obligations from Article 9 of this law, is conducted by the independent regulator for the field of electronic media. RTCG shall submit the report on the realization of programme obligations, which is the component part of the annual activity report, to the independent regulator for the field of electronic media, not later than by the end of April 30, for the previous year. The independent regulator for the field of electronic media shall publish the opinion on the realization of programme obligations from the Contract on its website within the 60 days from being submitted the report referred to in paragraph 2 herein. RTCG shall provide all data, information and documents necessary to perform oversight referred to in paragraph 1 of this article, upon request by the independent regulator for the field of electronic media. The Council of the independent regulator for the field of electronic media shall prescribe in a separate act more detailed conditions for providing data significant for performing oversight referred to in paragraph 1 herein.

European works

Article 9e

RTCG shall ensure that European works make 51% of its annual broadcasting time.

RTCG shall broadcast at least 40% of the works referred to in paragraph 1 herein originally in Montenegrin language on every RTCG television programme channel.

RTCG shall provide at least 10% of the programme and production plan for the current year for purchasing European works of independent producers, while half of these funds must be intended for works produced originally in Montenegrin language.

Notwithstanding paragraph 3 of this article, and in the case of the works produced originally in Montenegrin language does not satisfy the prescribed criteria established by the general terms and conditions, the balance of investing shall be determined with relation to the programme needs and market supply of European works for purchase.

The method and procedure for selecting programmes referred to in paragraph 3 herein are established by the RTCG general terms and conditions, which are published at the RTCG Internet page.

The director general shall submit the Report on realization of provision under paragraph 3 herein to the RTCG Council and to the independent regulator for the field of electronic media, by March 31 for the previous year.

Article 9f

„European works“ as referred to in Article 9e shall mean

- a) works originating in European Union Member States;
- b) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of paragraph ; c)
- c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Union and third countries and fulfilling the conditions defined in each of those agreements.

Professional standards and programme rules

Article 10

The RTCG shall be under an obligation to adopt and follow the professional standards and programme rule.

RTCG shall not receive sponsorship and other forms of donations for news and political programme contents.

Staff's rights and responsibilities

Article 11

The RTCG staff shall exercise their rights and perform their responsibilities according to the separate laws regulating the labor and employment areas respectively.

The RTCG staff shall be entitled to freely associate with national and international organizations, for the purposes of protecting their professional, economic and social rights and interests.

RTCG's accountability

Article 12

The RTCG shall be accountable to the public.

The RTCG's accountability shall be exercised through

1. the procedure for appointing the RTCG Council, their public work and responsibilities to represent and protect the citizens' interests in the information area;
2. informing the public about the RTCG's activities, by publishing either print or electronic form of the RTCG Operation Bulletin;
3. prescribing and conducting procedures by which viewers and listeners are ensured to submit their petitions and complaints concerning the RTCG operation;
4. by appointing Ombudsman.

IV. RTCG INDEPENDENCE

Programme independence

Article 13

The RTCG shall be independent in their programme editing and, according to that, they shall

1. establish their programme schedule;
2. establish their production and broadcasting conception;
3. edit and broadcast pieces of information about actual events;
4. arrange their activity performance.

Journalist independence

Article 14

Journalists employed with the RTCG shall be independent in their work and they shall act serving the best interests of the public. It shall not be allowed to have a journalist employment, i.e. salary terminated; his/her status in the editorial board changed; or a liability found on the grounds of his/her attitude or opinion expressed in line with the professional standards and programme rules.

Journalists employed with RTCG shall not receive remunerations from the external legal and physical persons for their work.

V. FINANCE FOR RTCG

Sources of finance

Article 15

The RTCG shall get funds through

1. the Montenegrin Budget allocation;
2. producing and broadcasting commercial contents;
3. producing and selling audiovisual works (shows, films, series, and alike) and audio and visual recording mediums, serving the interests of the public;
4. program content sponsorships;
5. organizing concerts and other public shows;
6. other sources, according to the law.

Cross subsidization

Article 15a

The RTCG shall not use funds from the budget of Montenegro, or the budget of the local self-government unit, for financing commercial audiovisual services (cross-subsidization).

If the RTCG acts contrary to paragraph 1 of this Article, the Public Broadcasting Council shall impose the refund of unlawfully spent funds and their sole use for the performance of public service activities in accordance with this Law. The repayment of the unlawfully spent funds of the national public broadcaster

is effected by payment to the account of the budget of Montenegro, and the refund of the unlawfully spent funds of the local public broadcaster to the account of the budget of the local self-government unit.

Funds that are not spent for the provision of public services, in accordance with the Contract from Article 9a of this Law, exceeding the amount of 10%, shall be paid to the account of the budget of Montenegro or the budget of the local self-government unit. (4) If the funds referred to in paragraph 3 of this Article exceed for three years the amount of 10%, the Government and the national public broadcaster, i.e. the local self-government unit and the local public broadcaster shall review the methodology for calculating the funds for services that are the subject of the Contract.

Budget of Montenegro

Article 16

For the RTCG to perform their major activity, the Montenegrin Budget shall annually allocate the funds accounting for 0.3% of the GDP (Gross Domestic Product), the estimate of which shall be done by the Government by adopting the macroeconomic and fiscal policy guidelines.

The way and conditions of providing funds from the Budget of Montenegro may not influence editorial and financial independence and autonomy of RTCG.

The public administration authority in charge of finance shall be under an obligation to disburse the funds referred to in paragraph 1 above to the RTCG, on monthly basis and according to a separate instruction.

The report on disbursing such funds shall be submitted for the purposes of the development of the Montenegrin Budget annual statement of accounts.

Duration of advertising and teleshopping in programmes of public broadcasters

Article 16a

(1) The proportion of advertising spots in programmes of public broadcasters within a given clock hour shall not exceed 10% (six minutes).

(2) The proportion of advertising spots in programmes of public broadcasters within a given clock in prime time hours (20.00 – 22.00) shall not exceed four minutes per hour.

(3) The proportion of advertising spots and teleshopping spots in programmes of public broadcasters within a given clock hour during the day shall not exceed 15% (nine minutes).

Separate accounting

Article 16b

The RTCG shall be obliged to keep separate accounting for the provision of public services from the one for performance of commercial audio or audiovisual services

Funding of program content with specific purpose

Article 17

This Article shall be deleted. (The Law on Amendments and Supplements to the Law on Public Broadcasting Services of Montenegro (Official Gazette of Montenegro, No. 054/16 of August 15th 2016)).

Using of funds

Article 18

This Article shall be deleted. (The Law on Amendments and Supplements to the Law on Public Broadcasting Services of Montenegro (Official Gazette of Montenegro, No. 054/16 of August 15th 2016)).

Programme transmitting and broadcasting

Article 17

The Montenegrin Budget shall provide funds for the RTCG programmes transmitting and broadcasting by means of terrestrial systems and telecommunication networks without engaging broadcasting frequencies, that shall be performed by a legal entity established by the Government for the purposes of transmitting and distributing broadcast signals.

The public administration authority in charge of media-related affairs (hereinafter referred to as the Ministry) and the legal entity in charge of transmitting and distributing the broadcast signals shall have their mutual rights and obligations concerning the terms and conditions for paying the costs referred to in paragraph 1 above regulated by an agreement within 30 days as of the day of entering into force of the Montenegro Budget Law relevant to a particular year.

Where the Agreement referred to in paragraph 2 above has not been entered into within the set deadline, the rights and obligations concerning the terms and conditions for paying the costs referred to in paragraph 1 above shall be temporarily regulated by a program content regulatory authority.

The RTCG shall bear the costs of their programmes transmitting and broadcasting by satellite systems.

VI. THE RTCG GOVERNANCE AND MANAGEMENT

RTCG authorities

Article 18

The RTCG's authorities shall be

1. the RTCG Council,
2. the RTCG Supervisory board
3. RTCG Governing Board and
4. the RTCG General Manager.

Article 19

In a joint session, the RTCG Council and RTCG Supervisory board shall adopt with a 2/3 of the votes the following decisions:

- (1) adopt the Statute of the RTCG, after receiving the opinion of the Governing Board;
- (2) appoint and dismiss members of the RTCG Governing Board, whereat the decision on the appointment is adopted after conducting the public competition;
- (3) give consent to the Contract referred to in article 9a of this law;
- (4) appoint and dismiss RTCG Ombudsman

RTCG Council and RTCG Supervisory Board status

Article 20

The RTCG Council and the RTCG Supervisory board shall represent the public interests in governing the RTCG. .

The Council and the Board shall be independent of both the public administration authorities and all organizations involved in either the activity of producing and broadcasting radio and television programmes or the activities and operations related to them (such as advertising, telecommunications, and alike).

Council's responsibilities

Article 21

The Council shall:

- (1) elect the Chair and the Deputy Chair of the Council from among the Council members, in the manner and procedure prescribed by the Rules of Procedure on the Council Work;
- (2) adopt general regulations that govern the issues of programme and professional standards at RTCG;
- (3) adopt RTCG programme documents;
- (4) upon the prior findings by the Ombudsman, related to the violation of the programme principles determined by the law and programme documents, order appropriate measures to be taken by the Radio of Montenegro director or the Television of Montenegro director;
- (5) at least twice a year publish Bulletin on RTCG activity on RTCG website;
- (6) publish activity plans, activity reports, periodical and annual RTCG accounts, RTCG financial reports for the previous year as well as the reports by the statutory auditor;
- (7) appoint and dismiss the Commission for Programme Content in Albanian Language and in languages of other members of minority peoples and members of national minority communities;
- (8) adopt the Rulebook on Appointing Procedure and Competences of RTCG Ombudsman;
- (9) adopt the Rules of Procedures on its work;
- (10) conduct other business in accordance with the law and the RTCG Statute.

Board's responsibilities

Article 22

The RTCG Governing Board shall:

1. adopt the RTCG periodical and annual accounts;
2. give opinion and consent to RTCG investment and financial plans;
3. give consent to RTCG financial report for the previous year, as well as the statutory auditor report;
4. give opinion and consent to decision on purchase, sale and mortgaging RTCG property, in accordance with the law;
5. give opinion and consent to decisions on taking bank loans and giving financial guarantees, in accordance with the law;
6. adopt the act on the minimum of work process during the employees strike;
7. give consent to changes in budget allocations;

8. adopt the Rules of Procedures on its work;
9. perform also other business pursuant to the law and RTCG Statute.

RTCG operation examination by the public

Article 23

The Council shall be under an obligation to make available

1. The report on RTCG activity for the previous year, with particular reference to the implementation of programme standards and fulfilling obligations determined by the law, by the Contract referred to in article 9a of this Law and activity programme for the previous year,
2. any RTCG previous year's financial operations report comprising the particulars of the use of the funds sourced according to item 1 of paragraph 1 of Article 15 of this Law, with particular emphasis on the obligation referred to in Article 15a of this Law,
3. a certified auditor's report on the RTCG financial operations, by means of posting them on the RTCG Web Site, to be examined by the public.

Not later than 15 days from their conclusion or adoption respectively, the Council shall make available to the public through the RTCG website:

- 1) Contract referred to in article 9a of this law and its amendments;
- 2) annual activity program and financial plan for its execution;
- 3) opinion of the Council of the independent regulator for the field of audiovisual media (AVM) services on realization of the Contract referred to in article 9a of this law for the previous year.

Submitting the Financial Report to the Parliament

Article 23a

The Council shall submit to the Parliament the report on RTCG financial performance for the previous year as well as the report by the statutory auditor on RTCG financial performance not later than end of June of the current year.

The Council Members number

Article 24

The RTCG Council shall comprise nine members.

Article 25

The RTCG Supervisory Board shall comprise five members. One of the RTCG Supervisory Board members shall be a representative of the RTCG employees.

Requirements for the Council and the Board member appointments

Article 26

The member of the Council and the Board may be an established expert in the field relevant for performing RTCG activities (journalism, law, economics, technical sciences, sociology, marketing, broadcasting etc), who is the citizen of Montenegro, have permanent residence in Montenegro, at least higher education degree and five years of experience in this field.

Conflict of interest

Article 27

1. Parliament Members and Councilors;
2. persons elected, nominated and appointed by the Parliament, the President of Montenegro and the Government;
3. the RTCG staff (with exception of one Board member);
4. party political officials (party presidents, members of presidency, their deputies, members of executive and steering boards, as well as other party officials), for at least two years after cessation of the office;
5. persons who—as holders of stakes, shareholders, managing bodies' members, supervisory bodies' members, staff and alike—have an interest in the legal entities involved in producing radio and television programmes and whose membership of the Council is capable of leading to a conflict of interest;
6. persons who have been pronounced the final judgment for a crime of official misconduct, a crime of corruption or fraud or theft or any other criminal offence that makes such persons unworthy of performing a public function, regardless of the sentence imposed, or persons who have been convicted for any other crime by a final judgment imposing on them to serve an

imprisonment lasting for longer than six months, over a period during which legal effects of the conviction exist;

7. persons who are spouses of the persons mentioned in points 1 to 5 herein or are related to them in the straight line regardless of the level of kinship, and in the side line up to the second level of kinship, and by affinity through marriage; may not be members of the Council.

The Council members shall be considered public officials pursuant to the Law on preventing corruption.

Appointment of the Council and the Board

Article 28

The Parliament confirms the appointment of the Council and the Board.

Putting forward nominees for the Council

Article 29

Put forward shall be

1. by the Montenegrin universities: one nominee;
2. by both the Montenegrin Academy of Science and Arts, and Matica crnogorska: one nominee;
3. by national cultural institutions and non-governmental organizations specialized in the field of culture: one nominee;
4. by the Chamber of Economy of Montenegro and the Union of Employers that is represented in the Social Council: one nominee;
5. by non-governmental organizations specialized in the field of media, except for association of broadcasters: one nominee;
6. by non-governmental organizations specialized in the protection of human rights and freedoms, that are active in the exercising and protecting of national, gender and overall equality; the right to have a healthy environment; consumer rights; the rights of persons with disabilities; or the right to education and the right to social protection: two nominees;

7. by the Trade Union that is represented in the Social Council: one nominee;

8. by the Montenegrin Olympic Committee and the National Paralympic Committee of Montenegro: one nominee for the Council members.

A nominee that has been put forward for a member of the Council need not be from among the authorized nominators.

Nominators, referred to in paragraph 1, point 1, 2, 3, 4, 5, and 8 herein, may propose, jointly or separately, one candidate each for the Council member.

The nominator referred to in item 7 of paragraph 1 above may put forward one nominee for a member of the Council.

The nominators referred to in item 6 of paragraph 1 above may each put forward jointly or separately two nominees for member of the Council.

The nominees for the Council members shall be put forward by the managing bodies of the legal entities referred to in paragraph 1 above, according to their respective Articles of Association.

Where the nominators referred to in items 2, 4 and 8 of paragraph 1 above submit their respective proposals, considered shall be the nominators' proposals according to the order of the nominators, whereas, where such proposal does not fulfil the prescribed requirements, the proposal of the following nominator shall be considered.

In the event referred to in paragraph 7 above, in the next Council appointment procedure, the authorized nominators shall change their places.

A proposal comprising more nominees than set out in paragraphs 3, 4 and 5 above shall not be taken into consideration.

Putting forward nominees for the Board

Article 30

The member of the Board may be an established expert in the field relevant for performing RTCG activities (journalism, law, economics, technical sciences, sociology, marketing, broadcasting etc), who is the citizen of Montenegro, have permanent residence in Montenegro, at least higher education degree and five years of experience in this field.

Contents of the nomination for a member of the Council and the Board

Article 31

To a member of the Council- and the Board-relevant nomination shall include the nominee's first and family name, address and a brief CV. The nomination for the Council member must be signed and sealed by an authorized nominator and/or authorized nominators.

The nomination referred to in paragraph 1 above shall mandatorily be accompanied by

1. the proof that proposed candidate is the Montenegrin citizen;
2. an evidence substantiating the nominee's residence in Montenegro;
3. an evidence substantiating the nominee's professional qualifications;
4. the nominee's statement of both the nomination acceptance and the absence of his/her appointment as a member of the Council- and Board-related obstacles referred to in Article 26 of this Law.

In addition to the pieces of evidence referred to in paragraph 3 above, non-governmental organizations acting as nominators for the Council members shall be under an obligation to provide also

1. an evidence substantiating their registration with the Register of Non Governmental Organizations of the competent public administration authority;
2. the Founding Document and the Articles, as given in the text kept by the competent public administration authority;
3. to the three previous years relevant performance reports and financial reports.

If to a member of the Council relevant nomination is not in compliance with paragraphs 1, 2, 3 and 4 above, it shall not be taken into consideration.

Non-governmental organization acting as authorized nominator

Article 32

A non-governmental organization may nominate a nominee for a member of the Council if they meet the requirements as follows:

1. that they have been registered with the public administration competent authority within at minimum three years prior to announcing a public invitation for proposals to nominate a candidate for a member of the Council;
2. that their founding documents and charter list their activity major goals and tasks involved in the matters falling within the framework of the areas set out by items 3, 5 and 6 of paragraph 1 of Article 28 of this Law and that over the previous three years they have been continuously engaged in the said matters.

In putting forward a nominee for a member of the Council, one non-governmental organization may participate only within one category of nominators referred to in paragraph 1 of Article 28 of this Law.

Council member independence

Article 33

The Council members shall not represent the institutions or the organizations that have put them forward as nominees, but they shall be under an obligation to perform their duties autonomously, independently and at their knowledge and bona fide, for the purposes of achieving the public interests, according to the Law, the RTCG's Articles and other general documents.

Nobody shall be entitled to influence in any manner the activity of any member of the Council, nor shall be any member of the Council under an obligation to follow anybody's instructions in relation to his/her working, except where a court decision exists.

Council and Board term of office

Article 34

The term of office of the Council and the Board shall start with the day of the appointment confirmation and it shall last for five years.

The same person may serve only twice as a member of the Council and the Board.

It shall be deemed that the Council has been nominated where there are at minimum seven nominees for the Council members.

It shall be deemed that the Board has been nominated where there are at minimum four nominees for the Council members.

During appointment of the first Council composition, four members shall be elected for five years, three members for four years, and two members for three years.

During appointment of the first Board composition, two members shall be elected for five years, two members for four years, and one member for three years.

The term of office of the members of the first Council and Board composition shall be determined by the Parliament Speaker with a draw in the presence of the representatives of the authorized nominators.

Council and Board member appointment procedure initiating

Article 35

The Council and Board member appointment procedure initiating shall be by the Parliament Speaker, by means of announcing a public invitation to the authorized nominators, whereas within at minimum six month prior to the current Council and Board term of office cessation.

Public invitation

Article 36

A public invitation for the Council members shall be announced to the authorized nominators by publishing it in the Official Gazette of Montenegro, on the Parliament's Web Site and at minimum in two daily print media in circulation within Montenegro.

A public invitation for the Board members shall be announced to the general public by publishing it in the Official Gazette of Montenegro, on the Parliament's Web Site and at minimum in two daily print media in circulation within Montenegro.

Public invitation contents

Article 37

A public invitation shall mandatorily include

1. the authorized nominators and the number of nominations they are allowed to submit;

2. requirements that a nominee for a member of the Council must fulfil;
3. the requirements that must be met by non-governmental organizations acting in the capacity of the authorized nominators;
4. the documents that shall mandatorily be supplied along with the nomination;
5. the name and the address of the authority to which nominations shall be submitted;
6. the submission manner and the deadline for nomination submitting.

Submitting of Nominations

Article 38

A nomination for a member of the Council and the Board shall be within the deadline that starts as of publishing an invitation in a daily print media.

Nominations for candidates for Council and Board members shall be submitted to the Council of the independent regulator for the field of electronic media not later than 40 days from the day of publishing public invitation.

List of nominees for the Council and the Board members

Article 39

Council of the independent regulator for the field of electronic media shall publish the list of all applicants with completed and timely submitted proposals for the Council and the Board members, in the same manner in which the public invitation was published, within eight days from the date of expiry of the proposals submission deadline.

If nominators for Council member referred to in article 28 paragraph 1 points 1,3,5,6 submit more than one separate nomination, the Council of the independent regulator for the field of electronic media shall give its opinion on candidates for Council member from these categories, based on the following criteria:

- 1) curriculum vitae and experience based on which it could be established they stand out in public life with advocating protection of the freedom of media and expression, respecting democratic principles and rule of law, building and advancing values of the constitutional order of Montenegro, development of civil society, defending human rights and freedoms, promotion of culture, science or art;
- 2) interview based on which it could be established the candidate has the vision of the state and development of RTCG, as well as of their specific contribution to fulfilling the mission of RTCG as the national public broadcaster;
- 3) number and relevance of the registered non-governmental organizations supporting the candidacy.

The Council of the independent regulator for the field of electronic media shall submit completed and timely proposals for a Council member, as well as opinion on candidates referred to in paragraph 2 herein to the parliamentary committee competent for the field of media, within 20 days from the date of expiry of the proposals submission deadline.

Within 20 days from receiving the proposal referred to in paragraph 3 herein, the parliamentary committee competent for the field of media shall conduct interviews with the Council and Board members' candidates referred to in paragraph 2 herein, and based on it and on the opinion of the Council of the independent regulator for the field of electronic media shall determine the proposal of candidates from these categories.

Within 30 days from receiving the proposal referred to in paragraph 3 herein, the parliamentary committee competent for the field of media shall determine the proposal of the Council nomination list, and conduct the public presentation of candidates from the proposed list and publish the candidates' qualifications on the Parliament's website.

The parliamentary committee competent for the field of media shall submit the proposal of the Council and the Board members' nomination list, with the reasoning and report on the procedure conducted, to the Parliament for deciding.

Proposal list determination

Article 40

Within 60 days as of the day of tabling the documents referred to in paragraph 6 of Article 37 of this Law, the Parliament shall undertake to make their determination of the proposal list for the Council and the Board appointment.

The Parliament shall decide simultaneously on the whole Council and Board nomination proposal list, namely confirming or not confirming the whole list.

The Parliament shall publish the reasoned decision referred to in paragraph 2 herein in the Official Gazette of Montenegro and on the Parliament's website. Administrative dispute may be initiated against the decision referred to in paragraph 3 herein, within 20 days from the day of delivery.

Re-proceeding

Article 41

If a proposal list is not complete, the Council member appointments procedure shall be repeated on the category of nominators whose nomination was not adopted.

In the event referred to in paragraph 1 above, the Parliament Speaker shall be under an obligation to publish—within 15 days as of the day of approving a proposal list concerned—the repeated public invitation to the authorized nominators whose nominations were not adopted, in the manner as set out by this Law.

Any member of the Council, who has been appointed upon the repeated public invitation, shall last until the Council term of office termination, in harmony with paragraph 1 of Article 32 of this Law.

Council and Board member remunerations

Article 42

Any member of the Council and the Board shall be entitled both to receive monthly remuneration for his/her engagement in the Council and the Board activities, where such remuneration shall be the gross amount of an average gross wage paid to the RTCG staff in a month preceding the remuneration payment as well as the reimbursement of expenses incurred during performing the duties of a member of the Council and the Board, according to the RTCG Articles.

Council and Board member's term of office cessation

Article 43

The Council and the Board members' term of office may terminate only in the procedure set out by this Law and due to the reasons as follows:

1. upon expiration of time for which the member was appointed;
2. upon the member release from the duty, due to reasons provided for by the law;
3. upon tabling to the Parliament the written resignation, about which mandatory notification shall be served to the Council and the Board and to the authorized nominator (for the Council members) concerned within eight days;
4. upon the member's death.

Council and Board member release from duty

Article 44

The Parliament shall release from duty a member of the Council and the Board, and they shall appoint another member to the Council and the Board where

1. it has been found that the former member presented false particulars of him/herself or failed to present particulars and circumstances of importance to the appointment;

2. such member has not participated in the Council and the Board meetings for a period longer than six months;
3. during his/her term of office, any of the circumstances set out by Article 26 of this Law took place; 4. such member is ill, as said by the competent health care institution findings as well as he/she is not in situation to perform the duties of a member of the Council and the Board for a period longer than six months.

Council and Board member release from duty procedure

Article 45

The Council and the Board member release from duty procedure may be initiated by either the Council and the Board or the parliamentary committee competent for the field of media.

After the conducted procedure in which all relevant circumstances have been established and in which the Council and the Board member against whom the procedure was instituted has been provided with an opportunity to give his/her points relating to all the circumstance, the Parliament may make a decision to release such Council and Board member from the duties.

The Parliament shall publish the reasoned decision referred to in paragraph 2 herein in the Official Gazette of Montenegro and on the Parliament's website. Administrative dispute may be initiated against the decision referred to in paragraph 3 herein, within 30 days from the day of delivery.

A new member appointment to the Council and the Board

Article 46

Where the Council and the Board member's term of office expires prior to the time for which the member was appointed to the Council and the Board, the Parliament Speaker shall be under an obligation to publish—within 15 days as of the day of the term of office termination—a public invitation to the authorized nominators to put forward a new nominee for the position of the member concerned in the Council and in the Board.

The nominee for a member of the Council and the Board referred to in paragraph 1 above shall be accordingly subject to the provisions of this Law regulating the Council and the Board member appointment.

The Council and the Board newly appointed member's term of office shall last until the termination of the term of office of the Council and the Board member he/she replaces.

The Council and the Board member who—according to items 1 and 2 of Article 42 of this Law—was released from the duties prior to his/her term of office expiration may be re-appointed to the Council and the Board.

Council and Board operation

Article 47

The Council and the Board shall operate in their meetings.

The Council and the Board meetings shall be held as needed, whereas at minimum monthly.

The Council and the Board meeting shall mandatorily be convened upon the request of at minimum three members of the Council and the Board respectively or by the RTCG managing Director.

The Council and the Board decisions shall be made by the majority vote of the members present, unless otherwise has been provided for by this Law or the RTCG Articles for certain matters.

The Council and the Board meetings shall be public, unless otherwise has been decided by the majority of two thirds of the Council and the Board members.

The Managing Director and the Radio Montenegro and the television of Montenegro's respective Directors shall be entitled to participate in the Council and the Board meetings, without the right to vote.

The Council and the Board may decide—by the majority of two thirds of the members present—to exclude from the work the persons referred to in paragraph 6 above.

Participating in the Council and in the Board operation shall be regulated by the Council and the Board Rules of Procedure.

Minutes of the Council and the Board meetings should be published on the RTCG website within five working days after the meeting was held.

The RTCG Governing Board Competences

Article 48

The RTCG Governing Board shall:

RTCG Governing Board shall:

1. adopt the RTCG plans of activities, reports on activities and periodical and annual accounts;
2. adopt RTCG investment and financial plans;
3. adopt RTCG financial report for the previous year;
4. select the statutory auditor of periodical and annual accounts;
5. adopt general act on internal organization and systematization of work positions in RTCG;

6. adopt decision on purchase, sale and mortgaging RTCG property, in accordance with the law;
7. adopt decisions on taking bank loans and giving financial guarantees, in accordance with the law;
8. adopt the act on the minimum of work process during the employees strike;
9. give consent to director general decisions and contracts obliging RTCG to execute payment in the total amount higher than the amount determined by the RTCG Statute;
10. give consent to changes in budget allocations;
11. adopt the Rules of Procedures on its work;
12. perform also other business pursuant to the law and RTCG Statute.

The RTCG Governing Board shall take care that the public funds for RTCG work are used in accordance with the law and the contract, in the public interest.

Not later than end of April of the current year, the RTCG Governing Board shall submit to the Council and the Supervisory Board activity plans, activity reports, RTCG periodical and annual accounts, reports on the RTCG financial performance for the previous year, RTCG investment and financial plans, financial report for the previous year, as well as statutory auditor report

Number of the RTCG Governing Board Members

Article 48a

The RTCG Governing Board shall have five members.

The RTCG Governing Board Term of Office

Article 48b

The RTCG Governing Board term of office shall start with the day of appointment and shall last for five years.

The same person may be appointed to be the RTCG Governing Board member not more than two times.

Criteria for the RTCG Governing Board Member

Article 48c

The RTCG Governing Board member may be established expert with at least 10 years of experience on the field of finance, economics or law, who is citizen of Montenegro, with the permanent residence in Montenegro and at least higher education degree.

Article 26 of this law shall be applied to candidates for election of members of the RTCG Governing Board.

The RTCG Governing Board Appointment

Article 48d

The RTCG Council shall appoint RTCG Governing Board, based on public competition.

Dismissal of the RTCG Governing Board member

Article 48e

The Council shall dismiss the RTCG Governing Board member and appoint the other one, if:

- 1) he should submit a request for dismissal;
- 2) it is established that he gave false details on himself during appointing procedure or failed to reveal details or circumstances significant for appointment;
- 3) one of the circumstances referred to in article 26 of this Law should occur during the term of office;
- 4) he should not attend the RTCG Governing Board sessions for longer than six months;
- 5) for the reason of illness based on the findings of a competent health institution he should not be able to perform the duties of the RTCG Governing Board member for longer than six months;
- 6) he should not fulfil regularly obligations determined by the Rules of Procedure on the Governing Board Work;
- 7) he should act contrary to this law and RTCG general acts.

The RTCG Governing Board member must be given an opportunity to comment on reasons for dismissal before the decision on dismissal is adopted.

Remunerations to the RTCG Governing Board Members

Article 48f

The RTCG Governing Board members have the right to a monthly gross remuneration in the amount of the average gross salary of the RTCG employees in the month preceding the remuneration payment, as well as to the reimbursement of expenditures related to performing the duty of the RTCG Governing Board member, pursuant to the RTCG Statute.

RTCG Managing Director

Article 49

A national of Montenegro with his/her residence in Montenegro, who holds at minimum both an academic degree and ten years of work experience shall be appointed as the RTCG Managing Director.

Article 50

A public invitation for the Managing Director position shall be announced by publishing it in the Official Gazette of Montenegro, on the Parliament's Web Site and at minimum in two daily print media in circulation within Montenegro.

A nomination for the Managing Director position shall be within the deadline that starts as of publishing an invitation in a daily print media.

Nominations for candidates shall be submitted to the Council of the independent regulator for the field of electronic media not later than 40 days from the day of publishing public invitation.

List of nominees for the Managing Director

Article 51

Council of the independent regulator for the field of electronic media shall publish the list of all applicants with completed and timely submitted proposals for the Managing Director position, in the same manner in which the public invitation was published, within eight days from the date of expiry of the proposals submission deadline.

The Council of the independent regulator for the field of electronic media shall submit completed and timely proposals for the Managing Director position, as well as opinion on candidates, to the parliamentary committee competent for the field of media, within 20 days from the date of expiry of the proposals submission deadline.

Within 20 days from receiving the proposal referred to in paragraph 3 herein, the parliamentary committee competent for the field of media shall conduct interviews with the Managing Director candidates, and based on it and on the opinion of the Council of the independent regulator for the field of electronic media shall determine the proposal of candidate.

Within 30 days from receiving the proposal referred to in paragraph 3 herein, the parliamentary committee competent for the field of media shall determine the proposal of the nomination list, and conduct the public presentation of candidates from the proposed list and publish the candidates' qualifications on the Parliament's website.

The parliamentary committee competent for the field of media shall submit the proposal of the Managing Director candidates, with the reasoning and report on the procedure conducted, to the Parliament for deciding.

The Managing Director should be elected by the members of Parliament by the qualified majority of votes.

Article 52

The Parliament shall publish the reasoned decision in the Official Gazette of Montenegro and on the Parliament's website. Administrative dispute may be initiated against the decision within 20 days from the day of delivery.

Re-proceeding

Article 53

If no candidate is selected, the Managing Director appointments procedure shall be repeated.

In the event referred to in paragraph 1 above, the Parliament Speaker shall be under an obligation to publish—within 15 days as of the day of approving a proposal list concerned—the repeated public invitation, in the manner as set out by this Law.

Article 54

The Managing Director shall

1. represent and act for the RTCG;
2. arrange and manage the work process as well as run the RTCG operations;
3. be responsible for the RTCG operations and the regulatory compliance thereof;
4. put forward a general document regulating the RCTG programme and professional standards;
5. put forward the RTCG programme documents;
6. propose a general document regulating the RTCG internal organization and job classification;
7. put forward the RTCG work plan;
8. submit the RTCG performance reports and quarterly and annual accounts;
9. submit the RTCG financial statements of the previous year;
10. upon the council consent, enter with the Government into the Agreement referred to in Article 9a of this Law;
11. take care of program documents and professional standards implementation within the RTCG;
12. appoint and discharge the Radio Montenegro and the Television of Montenegro's respective Directors as well as the RTCG other managing staff;
13. put forward general documents regulating the minimum work during a strike;
14. make proposal decision to purchase and sale of assets and to mortgage the RTCG assets as well as to take bank loans and issuing financial guarantees, according to the law;

15. perform also other duties according to the law and the RTCG Articles.

The Managing Director's term of office shall be four years.

One person may be appointed as the Managing Director only twice consecutively.

A person that may not be a member of the Council according to this Law neither may be appointed as the Managing Director.

The nominees for the Managing director position shall not be subject to the provisions of item 3 of paragraph 1 of Article 26 of this Law.

The Radio Montenegro and the Television of Montenegro's directors

Article 55

The Radio Montenegro and the Television of Montenegro's respective Directors shall be appointed to and released from the duties by the RTCG Managing Director.

A Montenegrin national whose residence is in Montenegro and who holds at minimum both an academic degree and five years of media work experience may be appointed as the Radio Montenegro Director or the Television of Montenegro Director.

Any person who may not serve as a member of the Council according to this Law neither may be appointed as the Radio Montenegro Director or the Television of Montenegro Director.

The Radio Montenegro Director and the Television of Montenegro Director shall be appointed to serve for four years, and they may be re-appointed as well.

The nominees for the appointment as the Radio Montenegro Director or the Television of Montenegro Director shall not be subject to the provisions of item 3 of paragraph 1 of Article 26 of this Law.

The Radio Montenegro Director and the Television of Montenegro Director authorities respectively

Article 56

The Radio Montenegro Director and/or the Television of Montenegro Director shall

1. represent and act for the Radio Montenegro and/or the Television of Montenegro, within the framework of their respective responsibilities;
2. put forward the Radio Montenegro and/or the Television of Montenegro programme orientation and shall be accountable to the Council for the implementation thereof, according to the law and the RTCG Articles;

3. take care of the Radio Montenegro and/or the Television of Montenegro adopted work plans implementation ;
4. take care of the compliance with the provisions of this Law, where such provisions regulate the programme contents;
5. appoint to and release from the duties the Radio Montenegro and/or the Television of Montenegro programme editor;
6. put forward the Radio Montenegro and/or the Television of Montenegro internal organization and job classification document to the Managing Director;
7. enter into contract on work with the staff of the Radio Montenegro and/or the Television of Montenegro, according to the RTCG Articles and general documents on internal organization and job classification;
8. enforce the Petitions and Complaints Commission decisions; 9. perform also other duties as set out by the RTCG Articles.

The RTCG Managing Director, the Radio Montenegro Director and the Television of Montenegro Director

Article 57

The RTCG Managing Director, the Radio Montenegro Director and the Television of Montenegro Director may be released from their respective duties prior to the expiration of the time for which they were appointed to serve as such,

1. upon their own request;
2. where they are not acting according to the law and the RTCG general documents;
3. where by their mala fide and improper acting they cause serious damaging effects on the RTCG.

Prior to making a decision to have the RTCG Managing Director, the Radio Montenegro Director and the Television of Montenegro Director released from the duties, they must be given an opportunity to state their particular points relating to the release reasons.

Acting director appointment

Article 58

Where the RTCG Managing director has been released from the duties, the Council shall nominate an acting managing director for the RTCG to serve for a six-month period and/or pending the RTCG Managing Director appointment.

Where the Radio Montenegro and/or the Television of Montenegro Director has been released from the duties, the RTCG Managing Director shall nominate an acting director for the Radio Montenegro and/or for the Television of Montenegro.

Criteria for RTCG Ombudsman

Article 58a

RTCG Ombudsman may be an established media expert with a minimum of 10 years of experience in the electronic media, who is a permanent resident of Montenegro, who is the citizen of Montenegro and has at least the higher education degree.

A person who may not be the RTCG Council member may not be appointed as Ombudsman.

The provision of article 26 paragraph 1 point 3 of this law shall not be applied to candidates for ombudsman appointment.

Ombudsman's Competences

Article 58b

The RTCG Ombudsman is independent in his work.

Ombudsman shall:

- 1) consider petitions and complaints from listeners, viewers and users of RTCG portal;
- 2) consider violation of human rights and discrimination of any kind in broadcasted programme contents;
- 3) monitor respecting of RTCG programme principles;
- 4) monitor respecting citizens' right to freedom of speech, right to accessibility of media, right to accurate and verified information, right to correction;
- 5) submit quarterly reports on his activity to the RTCG Council;
- 6) perform his competences according to the Rulebook on the RTCG Ombudsman Appointment Procedure and Competences, adopted by the Council;
- 7) give recommendation to the RTCG editorial staff and represent a mediator in a twoway communication between media and the public;

Ombudsman's reports and recommendation shall be published on the RTCG website, after informing the Council.

RTCG Ombudsman's Term of Office

Article 58c

The RTCG Ombudsman's term of office shall start with the day of the appointment confirmation and it shall last for three years

The same person may be appointed to be Ombudsman not more than two times.

Appointment of the RTCG Ombudsman

Article 58d

The RTCG Council and the Supervisory Board shall appoint on the joint session the Ombudsman for RTCG services users, based on public competition.

Dismissal of Ombudsman

Article 58e

The RTCG Council and the RTCG Supervisory Board shall dismiss the Ombudsman in a joint session if:

- 1) he should submit a request for dismissal;
- 2) it should be established that he gave false details on himself during appointing procedure or failed to reveal details or circumstances significant for the appointment;
- 3) one of the circumstances referred to in article 26 of this Law should occur during the term of office;
- 4) he should not fulfil regularly obligations determined by the Rulebook on the RTCG Ombudsman Appointment Procedure and Competences
- 5) if he should act contrary to this Law and RTCG general acts
- 6); for the reason of illness based on the findings of a competent health institution he should not be able to perform the duties of the RTCG Ombudsman for longer than six months;
- 7). In other cases prescribed by the Statute.

The RTCG Ombudsman must be given an opportunity to comment on reasons for dismissal before the decision on dismissal is adopted.

VII. ARTICLES

The RTCG Articles contents

Article 59

The RTCG Articles shall mandatorily include the provision regulating

1. the RTCG registered office;
2. the RTCG internal organization;
3. the RTCG's bodies and the persons holding special authorities respective methods of operating and decision making and responsibilities;
4. the procedure for determining listeners and viewers' petitions and complaints regarding the RTCG operation;
5. method of publishing the RTCG Operation Bulletin, financial plans, income and expense accounts and other documents and pieces of information that—according to this Law—the RTCG shall mandatorily present to the public;
6. the method of determining and using the funds by certain organizational units within the RTCG.
7. manner of conducting and conditions of public competition for appointing the Governing Board members;
8. manner of conducting and conditions of public competition for appointing the Ombudsman.

The RTCG Articles shall comprise also the provisions regulating other matters, according to the law.

VIII. THE RTCG ASSETS

Ownership right

Article 60

The RTCG assets shall be the state-owned ones, whereas it shall mean the ownership of the movable and immovable things, moneys and securities and other ownership rights.

The RTCG shall be held liable with all their assets.

The government shall jointly and severally and without a limitation shall be held accountable for the RTCG liabilities.

The RTCG may not—without the Council consent—encumber any real and other property of the value exceeding the one set out by the RTCG Articles