



Montenegro
AGENCY FOR ELECTRONIC MEDIA
COUNCIL
Number: 01 - 26
Podgorica, 17 January 2011

STATUTE
OF THE AGENCY FOR ELECTRONIC MEDIA

Pursuant to the Article 14, indented line 1, Articles 41 and 154 of the Electronic Media Law ("Official Gazette of Montenegro", No. 46/10), at the meeting held on 17 January 2011, the Council of the Agency for Electronic Media adopted

STATUTE OF THE AGENCY FOR ELECTRONIC MEDIA

I BASIC PROVISIONS

Article 1

This Statute shall regulate the following activities and tasks of the Agency for Electronic Media (hereinafter referred to as: Agency): seat of the Agency; internal organization of the Agency; manner of work, decision-making and competencies of the management bodies of the Agency; budget planning and financing of work; manner of publication of the annual report, financial plans, statement of accounts of income and expenditure and other documents in compliance with law; publicity of work, business secret and other issues of importance for the activities of the Agency.

The terms used in this Statute shall have the meaning as defined by Article 8 of the Electronic Media Law.

Article 2

The Agency is an independent regulatory body in the field of audiovisual media services (hereinafter referred to as: AVM services), which exercises public authorities in compliance with the Electronic Media Law and this Statute, and its work shall be based on the following principles:

- 1) freedom, professionalism and independence of the AVM service providers;
- 2) prohibition of any form of censorship;
- 3) balanced development of public and commercial AVM service providers;
- 4) free and equal access to all AVM services;
- 5) development of competition and pluralism;
- 6) application of international standards;
- 7) impartiality, indiscriminatio, and transparency.

Article 3

The Agency is an independent legal entity and it shall be functionally separate from the all public authorities and legal and natural persons involved in the production and broadcasting of radio and television programmes or provision of other AVM services.

Article 4

The Agency shall act in the best interest of the public.

Through its activities, the Agency shall exercise public interest and it shall be accountable to the public.

The Agency shall decide on its internal organization and manner of work independently.

Article 5

The founder of the Agency shall be the state.

The rights of the founder, on behalf of the state, shall be exercised by the Council of the Agency for Electronic Media (hereinafter referred to as: Council).

Any change in the main activity and ownership structure of the Agency shall be possible only with the consent of the Parliament of Montenegro.

The Agency shall have the status of a legal entity and shall be entered into the Central Registry of the Commercial Court.

II NAME, SEAT, LOGO, SEAL AND STAMP

Name

Article 6

In legal matters, the Agency shall operate under its full name: Agency for Electronic Media.

The name of the Agency in the English language shall be: Agency for Electronic Media.

The abbreviated name of the Agency shall be: AEM.

Seat

Article 7

The seat of the Agency shall be in Podgorica, Bulevar Svetog Petra Cetinskog 9.

The Agency Council shall decide about the change of the seat of the Agency.

Logo

Article 8

The Agency shall have its logo.

The logo of the Agency shall be determined by the Agency Council.

Seal and Stamp

Article 9

In dealing with legal matters, in addition to the signature of the authorized person, the Agency shall use both seal and stamp.

The seal of the Agency shall be round, 30 mm in diameter and contain the coat of arms of Montenegro, inscription "Montenegro", and full name and seat of the Agency: "Agency for Electronic Media – Podgorica".

Text of the seal shall be written in concentric circles around the coat of arms of Montenegro.

Article 10

The stamp of the Agency shall be rectangular, its dimension shall be 7.5 mm x 4 mm, it shall contain the name: "Montenegro" and full name and seat of the agency: "Agency for Electronic Media – Podgorica".

Name and seat of the Agency shall be written horizontally along the empty space for the entry of the number of a document and date of registration.

Article 11

The decision concerning the ordering, replacement, design and manner of use of the seal and stamp, protection of the intellectual property and persons accountable for their keeping shall be adopted by the Agency Director.

III REPRESENTATION

Article 12

The Agency shall be represented by Director, within the framework of authorizations prescribed by the law and this Statute.

The Agency shall be represented by other persons only on the basis of written authorization of the Agency Director.

At the international and local events, the Agency shall be represented by members of the Agency Council and Agency Director.

The Agency shall be represented by other persons only on the basis of a decision adopted by the Council or Director of the Agency.

IV ASSETS

Article 13

The Agency assets shall be owned by the state.

The Agency assets shall consist of the ownership rights over movable assets and real estate, financial resources, securities and other property rights.

The Agency shall be liable for its commitments in legal matters with all of its assets.

The Agency shall be liable for its commitments in legal matters with all of its assets.

Article 14

The Agency Director shall not mortgage or sell any real estate or other property of the Agency worth over €10,000, without the consent of the Agency Council.

V ACTIVITIES

Main activities

Article 15

Within the framework of its main activity, the Agency shall:

- 1) propose a development programme for the AVMS sector;
- 2) prepare, in cooperation with the regulatory authority for electronic communications, the basis for the development of a part of the plan for allocation of radio-frequency spectrum related to the terrestrial broadcasting;
- 3) give consent on a part of the proposed radio-frequency assignment plan related to the terrestrial broadcasting;
- 4) provide opinion to the regulatory authority for electronic communications about the need to define the operators with significant market power, if it proves on the basis of the analyses that a relevant market of the electronic communications services, the provision of or/and access to AVM services is conditional on, is not sufficiently competitive;
- 5) award licences for provision of AVM services (broadcasting licences and licences for provision of on-demand AVM services);
- 6) define the level of fees for the awarding and use of licences for provision of AVM services;
- 7) keep register of the providers of AVM services and electronic publications;
- 8) decide upon complaints of natural and legal persons related to the activities of the providers of AVM services;
- 9) supervise the enforcement of the Electronic Media Law;
- 10) adopt and enforce the secondary legislation necessary for implementation of the Electronic Media Law;
- 11) perform other activities in compliance with the law and the Agency Statute.

Article 16

The Agency and the regulatory authority for electronic communications are obliged, in compliance with this Law and a separate Law regulating the field of electronic communications, to cooperate and coordinate their work related to radio frequencies intended for the provision of AVM services.

The Agency shall cooperate with the regulatory body for electronic communications and the public administration body for protection of competition in the course of analysing the electronic communications service market, the provision of or/and access to AVM services is conditional on.

Article 17

The Agency shall cooperate with relevant regulatory authorities of other countries, in order to exchange experiences, improve its work, and ensure harmonization with international experiences and standards.

Prior to adopting a decision on awarding the license for provision of AVM service, the Agency shall exchange information with regulatory authorities of other EU Member States on the media service providers if the

broadcasting of radio or television programme or providing of other AVM services refers to other EU Member States as well.

Article 18

The Agency shall cooperate with relevant international organizations, in coordination with relevant public administration bodies.

Relevant public administration bodies are obliged to obtain the opinion of the Agency prior to ratification and adoption of international conventions and other agreements related to the provision of AVM services.

Article 19

The Agency shall initiate the amendment to the legislation and other regulations and propose measures for improvement of the AVM sector.

The Agency shall cooperate with the international organizations involved in the development of the AVM sector and participate in the activities of relevant international organizations it is a member of.

Within the framework of its legal competencies, the Agency shall particularly cooperate with relevant regulatory authorities of other countries on the enforcement of preventive and repressive control function, aimed at successful functioning of the overall AVM sector.

The cooperation with the organizations referred to in paragraphs 2 and 3 of this Article shall be defined by the bilateral and multilateral cooperation agreements.

Article 20

The Agency shall adopt both general and specific documents regulating the rights and obligations of the AVM service providers and electronic publications, pursuant to the provisions of the Electronic Media Law and the regulations adopted on basis of the Electronic Media Law.

When preparing the general document referred to in paragraph 1 of this Article, The Agency shall publish draft document on its web site and invite all interested stakeholders to provide their comments and suggestions, within a period no shorter than 15 days.

In order to carry out the prescribed activities, the Agency shall adopt regulations, instructions, decisions, conclusions, opinions, recommendations and other documents.

The rulebooks and instructions shall be adopted in line with European standards for the purpose of enforcement of the law and regulation of relations in the AVM sector, and they are related to the programming and technical aspects of the activities of the AVMS providers.

The rulebooks and instructions shall be published in the "Official Gazette of Montenegro".

VI ACCOUNTABILITY AND DUTIES

Article 21

In order to provide a public access to the activities of the Agency, the Agency Council shall publish on the Agency's website, no later than the end of June, and provide the access to:

- annual report of the Agency for the previous year, focusing in the fulfilment of its legal obligations;
- financial report of the Agency for the previous year, with an audit report on the financial operation of the Agency.

The accountability shall be ensured through:

- 1) the procedure of appointment of the Agency Council, its public work and duty to represent and protect the interests of the AVMS providers;
- 2) keeping the public informed about the Agency's activities by means of its website or in some other appropriate manner;

Broadcasters, owners of licenses for development and use of distribution systems, and citizens shall have the right to initiate administrative proceedings with the competent court concerning all decisions of the Agency.

Article 22

Both AVMS providers and citizens shall be entitled to initiate administrative proceedings before the competent court against all binding decisions of the Agency.

The Agency Council is obliged to provide public access to all documents related to the rights and obligations of legal or natural persons, without any delay.

Article 23

The Agency shall publish the following documents and information on its website:

1. Statute and other general documents adopted by the Agency;
2. decisions and other administrative documents of the Agency;
3. public calls and invitations to public consultations;
4. professional opinions and explanations related to implementation of the Electronic Media Law;
5. statistical and other indicators related to the development of the AVMS sector;
6. annual report and financial plan of the Agency, together with its agenda;
7. decision of the Parliament of Montenegro on the appointment and revocation of the Council members;
8. the details of the Chairman and members of the Council, Agency Director and other employees of the Agency;
9. decisions following the public calls for awarding the rights to provide AVM services.

Article 24

In order to achieve common interest, the Agency shall be obliged to supervise the adherence of the AVMS providers to their obligations related to:

- 1) respect of privacy and dignity of citizens;
- 2) observance and promotion of fundamental human rights and freedoms, democratic values, independent institutions, pluralism of ideas and values of multicultural society;
- 3) observance and promotion of the culture of public communication and linguistic standards;
- 4) production and broadcasting of impartial and balanced programmes of the broadcasters expressing the cultural identity of the nation, national and ethnic groups;
- 5) production and broadcasting of programmes of the broadcasters in mother-tongue of national and ethnic groups in their areas of residence;
- 6) observance of professional standards and programme regulations by the electronic media;
- 7) observance of quotas for broadcasting of independent production programmes;
- 8) observance of quotas for the broadcasting of European audiovisual works;
- 9) observance of conditions and quotas for broadcasting of advertisements and teleshopping;
- 10) observance of conditions for sponsorship and product placement;
- 11) co-operation and exchange of programming of public broadcasting services of interest for the citizens;
- 12) prevention of unauthorized media concentration of broadcasters;

VII AGENCY BODIES

Article 25

The bodies of the Agency shall be: Agency Council and Agency Director.

The Agency bodies shall coordinate their activities.

Agency Council

Article 26

The Agency Council shall be comprised of five members appointed from among the prominent professionals in the fields relevant for carrying out the Agency's activities, who have a university degree, Montenegrin citizenship and residence in Montenegro.

Article 27

The Council's term of office shall start on the day of its appointment and last for five years.

Notwithstanding paragraph 1 of this Article, when being appointed for the first time, three members shall be appointed for a period of five years and two members for a period of four years.

For members of the first composition of the Council, Speaker of Parliament shall determine duration of term of office by draw, in presence of representatives of the authorized nominators of the Agency Council members.

Same person may be appointed as the Council member no more than for two consecutive terms of office.

The Council's decisions shall be binding when at least three of its members have been appointed.

Article 28

The Council members shall not represent the institutions or organizations that nominated them, they shall perform their duty independently, according to their own knowledge and conscience, in order to protect the public interest, in line with the law, Statute and other general documents of the Agency.

Nobody shall have the right to influence the work of the Agency Council members in any way, nor are they obliged to take into account anybody's instructions regarding their work, except for the decisions of the competent court adopted in the process of judicial control of the Council's activities.

Article 29

The term of office of a Council members ends with:

- 1) expiration of the term they have been appointed for;
- 2) revocation;
- 3) written resignation.

The Council member who has handed in their resignation is obliged to notify the Council and the authorized nominator within eight days after resigning.

The Council member is obliged to immediately notify the Chairman of the Council in writing about the changes in their status, preventing them from acting as the Council member any longer.

Article 30

Seven months prior to the end of term of office of a Council member, the Chairman of the Council shall inform the body of the Parliament of Montenegro in charge of appointment in writing about the need to appoint a new Council member in compliance with the Electronic Media Law.

Article 31

A Council member may be revoked only for the reasons and according to the procedure prescribed by the Electronic Media Law.

The Council may decide, by a two-third majority of all members, to suspend the Council member whose revocation has been requested, pending a decision of the Parliament of Montenegro.

Article 32

In case that the term of office of a Council member has ended before the expiry of the period they were appointed to, the appointment of a new member shall be done according to the Electronic Media Law.

Article 33

If the number of the Council members is less than three, because of the end of the terms of office of some of its members, the Council shall not adopt binding decisions until the appointment of new members.

Article 34

The Council shall:

1. adopt the Statute of the Agency;
2. define a draft development programme for the AVMS sector, after the public consultations, and submit it to the Government of Montenegro for adoption;
3. provide opinion on the professional basis for development of the assignment plan for the radio-frequency bands, related to the terrestrial broadcasting, prepared by the regulatory authority for electronic communications;

4. provide consent to the proposed radio-frequency assignment plan, related to the terrestrial broadcasting;
5. launch public call for awarding the rights to provide AVM services;
6. provide consent to temporary or permanent concession, rental, or any other type of transfer the licence for provision of AVM services;
7. adopt a document on the level, manner of determination and payment of registration fees and fees for the awarded licences for provision of AVM services;
8. adopt documents on programme standards for provision of AVM services;
9. adopt documents on the observance of conditions related to the minimum programme quotas for European audiovisual works and independent production, in line with European standards;
10. adopt documents determining the conditions and quotas for the provision of commercial audiovisual communications, in line with European standards;
11. adopt a document on the manner of taking measures towards the providers of AVM services and the manner of deciding upon the complaints against their activities;
12. decide on the complaints against the first-instance decisions of the Agency Director;
13. take measures aimed at temporarily limiting the free reception and retransmission of AVM services from other countries in compliance with Article 6 of the Electronic Media Law;
14. submit reports to the European Commission in compliance with the Electronic Media Law and the regulations adopted on the basis of it;
15. adopt the Standing Orders of the Council;
16. elect the Chairman from among the Council members;
17. appoint and revoke the Agency Director;
18. adopt a general document on the internal organization and job classification;
19. provide consent to mortgage or sell any real estate or other property of the Agency worth over €10,000;
20. adopt the agendas, annual reports and both periodical and annual statements of accounts of the Agency;
21. adopt the financial plan for the next year and financial report of the Agency for the previous year;
22. hire an independent auditor of the annual statement of accounts of the Agency;
23. adopt the Code of Conduct of the Agency;
24. adopt other documents necessary for implementation of the Electronic Media Law;
25. perform other activities in compliance with this law and Statute.

Article 35

Performing other activities within its remit, the Council shall:

1. define the conditions for the organization and carrying out of prize competitions by the providers of AVM services.
2. stimulate the providers of AVM services to gradually make their services available to people with hearing or sight impairments.
3. approve the manner of determination of the relation between co-regulation and self-regulation for the purpose of meeting the objectives defined by Article 53 of the Electronic Media Law and publish, on the website of the Agency, the documents related to the manner of regulation of these issues.
4. prescribe the technical, spatial and human resource conditions for the production and broadcasting of radio and television programmes.
5. define the watershed outside of which it is prohibited to broadcast the contents that could harm the physical, health, moral, mental, intellectual, emotional and social development of minors.

6. Provide consent to all significant changes in the structure of radio and television programmes planned by the broadcaster that has been awarded the licence for broadcasting using the analogue broadcasting frequencies, or has the access to a multiplex for digital terrestrial broadcasting.
7. prescribe the conditions for an increase in the share of European audiovisual works in the programming of a broadcaster that has failed to reach a quota of at least 51 percent in its annual transmission time.
8. prescribe the conditions for an increase in the share of audiovisual works created by independent producers in the annual programming of a broadcaster that has failed to reach a quota of at least 10 percent in its annual transmission time.
9. prescribe the conditions for determination of programming considered to be local production.
10. determine a list of national or non-national events of major importance for Montenegrin public, and determine whether these events should be available by whole or partial live coverage, or where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage, and immediately inform the European Commission, the Standing Committee for Transfrontier Television, and the states signatories of the European Convention on Transfrontier Television and international treaties that are binding for Montenegro.
11. prescribes the conditions for exercising the right to access the events of high interest to the public, which are transmitted on an exclusive basis by the broadcasters under the jurisdiction of Montenegro.
12. Define the status of non-profit broadcaster when adopting a decision on the awarding the broadcasting rights.
13. Prescribe the activities of the providers of on-demand AVM services, making sure that the service that might impair the physical, mental, or moral development of minors are only made available in such a way that ensures that minors will not normally hear or see such services.
14. determine the criteria for performing the duties of the on-demand AVMS providers related to the promotion of the production and access to European works.
15. define the manner of determination of significant value of the goods or services placed, given that the value is determined in relation to the level of production costs or the expenses paid for the placement of products or services in certain programmes.
16. determine the conditions of awarding the broadcasting licence, following a public tender and at a request for awarding the broadcasting licence.
17. provide consent to establishment of programme networks for the purpose of simultaneous broadcasting of two or more radio or television programmes.
18. provide consent to establishment of regional and national networks of broadcasters.
19. prescribe the conditions for awarding the licences for provision of on-demand AVM services.
20. prescribe the contents of application submitted to the Agency by natural and legal persons for entry in the registry of providers of electronic publications services.
21. prescribe the manner of keeping a public registry of awarded licences for provision of AVM services and registry of electronic publications.
22. provide consent to changes in the ownership structure of the broadcasters exceeding 10 percent stake.
23. Initiate the amendment to legislation and other documents and propose the measures for improvement of AVM sector.

Article 36

The Council shall work in sessions.

Sessions of the Council shall be convened and chaired by the Chairman of the Council, or the Council Member authorized by them.

The Council shall meet when needed, at least once a month (regular session).

The Chairman of the Council may convene an extraordinary session at their own initiative.

Sessions of the Council shall be convened at the request of at least three Council members or Agency Director.

Article 37

Notwithstanding Article 36, an electronic session may be convened when necessary because of the importance and/or urgency of the matter.

The electronic session is convened by the Chairman of the Council.

Depending on the nature and urgency of the items of the agenda, the Chairman of the Council shall decide, with the consent of all Council members, whether to organize an electronic vote or convene a Council session.

When organizing an electronic vote, the Chairman of the Council invites all Council members by e-mail to vote on the decisions to be adopted, within certain timeframe that cannot be shorter than three working days.

When voting on the decisions to be adopted by means of electronic vote, each Council member is obliged to notify all other Council members and Secretary of the Council by e-mail about their position on the particular item of the agenda.

Article 38

The Agency service shall additionally inform the Council members that the electronic vote shall take place and remind them of the matter and timeframe of vote.

In case that a Council member fails to vote by e-mail within the defined timeframe, it shall be considered that the Council member has abstained in vote.

After the expiry of the defined timeframe, Chairman of the Council shall notify the Council members of the results of the electronic vote by e-mail.

The vote taken by e-mail has the same legal validity and binding force as the one taken at the Council session.

All relevant documents related to the electronic sessions shall be kept by the Agency.

Article 39

The Council shall adopt binding decisions if the majority of the total number of members is present at the session.

The decisions of the Council shall be adopted by the majority vote of the total number of members, unless it is prescribed differently by the Electronic Media Law or this Statute.

Chairman of the Council shall be elected and revoked by a secret majority vote of the total number of the members.

Article 40

If a Council member has a conflict of interests related to the decision making concerning certain issue, they shall be obliged to inform other members about it in order to be excluded from the discussion and decision making related to that issue.

If a Council member has participated in work while having a conflict of interests, other members shall be obliged to reconsider the adopted decisions and may declare them invalid.

Article 41

The Council members are obliged to perform their duties in such a way that the independence of the Agency is not called into question, and to ensure the observance of the principle of transparency, objectivity and impartiality, to attend and vote at the Council sessions, to keep the confidentiality of data they learn at the Agency, and to act in line with the obligations prescribed by the Electronic Media Law, this Statute and general documents of the Agency.

Council members shall seriously violate their duty if they:

1. harm the reputation of the Agency with their work or behaviour;

2. compromise the independence of the Agency while performing their duties;
3. receive any presents or services from providers of AVM services or enter the relations resulting in a conflict of interests related to the duties prescribed by the Electronic Media Law.

The existence of the reasons defined under point 2. of this Article, constituting serious violation of duty, shall be determined by the Council.

Article 42

The sessions of the Council shall be public, unless the Council decides otherwise by the majority vote of the total number of its members.

Chairman of the Council shall inform the public by means of the media about the activities of the Council.

The documents adopted by the Council shall be published on the website of the Agency, unless it is prescribed otherwise by the Electronic Media Law or this Statute.

The Rulebook on Internal Organization and Job Classification shall define a separate position for Secretary of the Council, who is in charge of the administrative and technical activities for the purpose of the Council, as well as other duties at the request of the Council.

The administrative, technical and other activities for the purpose of the Council, as well as the conditions for its work, shall be provided by the Agency.

Article 43

Council member shall not be the founder of the provider of AVM services or participate in any other way as a submitter of the request for the awarding of license for the provision of AVM services within 12 months after the end of their term of office.

Article 44

Council member shall be entitled to a monthly remuneration for their work, amounting to an average net salary at the Agency in the month preceding the payment of remuneration, as well as to compensation of other expenses incurred while discharging their duties, in compliance with the regulations valid for all Agency employees.

Article 45

Agency Director may attend the Council sessions, without the decision making rights.

Agency Director may be replaced at the Council sessions by a Deputy Director or some other employees authorized by Director.

The participation of other persons in the work of the Council shall be regulated by the Standing Orders of the Council.

Agency Director

Article 46

The Agency Director shall be appointed by the Council, following a public call.

A person may be appointed as Agency Director if, in addition to meeting general conditions, they:

- 1) are citizens of Montenegro and have residence in Montenegro;
- 2) have a university degree;
- 3) have at least 5 years of work experience.

Article 47

A public call for the appointment of Agency Director shall be launched and managed by the Council.

A candidate who applies to the call for the election of Director is obliged to submit their CV and the strategy of development of the AVM sector in Montenegro.

The Council shall sign a contract with the Agency Director, which shall comprise all relevant elements, specified by a decision of the Council, including the level of monthly salary.

Article 48

If nobody applies to the public call for the election of Agency Director or none of the applied candidates is elected, the call shall be repeated.

The Council shall appoint an acting director until the appointment of the Agency Director, on the basis of the repeated call, for a period no longer than 6 months.

The Council shall conduct the procedure of public call, appointment and revocation of the Agency Director in compliance with the Electronic Media Law and this Statute.

Article 49

The term of office of the Agency Director shall be four years.

Same person may not be appointed as Agency Director more than two consecutive times.

A person who may not be a Council member in compliance with the Electronic Media Law shall not be appointed as Agency Director.

Article 50

Agency Director shall:

- 1) represent and act on behalf of the Agency within the framework of their authority defined by law and this Statute;
- 2) organize and manage the Agency's activities;
- 3) be accountable to the Council for their work;
- 4) be accountable for the operation and legality of the Agency's work;
- 5) propose a general document on the internal organization and job classification of the Agency;
- 6) propose the agendas of the Agency;
- 7) submit the annual report and financial report of the Agency to the Council;
- 8) appoint and revoke Deputy Directors of the Agency;
- 9) conclude the employment contracts with the employees;
- 10) propose a general document on the minimum service during the strike of employees;
- 11) propose to the Council the decision on the purchase and sale of assets and mortgaging of the Agency's property, taking bank loans and providing financial guarantees, in compliance with the Electronic Media Law and this Statute;
- 12) adopt a document on the awarding and revocation of licence for provision of AVM services, in compliance with the Electronic Media Law;
- 13) perform other duties in compliance with the Electronic Media Law and this Statute.

Article 51

Within the scope of other activities related to public authority, Director shall:

- publish in the "Official Gazette of Montenegro" the data referred to in Article 129 of the Electronic Media Law (data on natural and legal persons (name, seat/residence) that have directly or indirectly acquired during the year the shares or stake in a provider of AVM service, including the data on the percentage of shares or stake, as well as the data on the stake of the provider of AVM services in other legal persons that provide AVM services; and 2) a stake of the owner of a provider of AVM services higher than 10 percent in legal persons providing AVM services).
- prior to launching a call for awarding the broadcasting rights and public call for provision of on-demand AVM services, when a provider of AVM service intends to use the terrestrial broadcasting frequencies, the Agency is obliged to obtain from the regulatory authority for electronic communications the data on the available frequencies and available capacities of a digital terrestrial broadcasting multiplex, reserved for the broadcasting of AVM services.

- instruct the broadcaster to eliminate irregularities related to the unauthorized media concentration within three months from the day it was identified, if unauthorized media concentration is determined after the awarding of the broadcasting licence.
- revoke the broadcasting licence if a broadcaster fails, without justified reason, to comply with the instruction to eliminate irregularities related to the unauthorized media concentration.

Article 52

The Council may decide to revoke the Agency Director if they:

- 1) violate the law and general documents of the Agency;
- 2) fail to implement the decisions and conclusions of the Council;
- 3) submit a written request for revocation.

Until the appointment of new Director, the Council shall appoint an acting director from among the employees, for a period no longer than six months.

VIII INTERNAL ORGANIZATION

Article 53

The Agency's operation shall be based on efficient completion of activities, rational organization of work, successful management and discharge of responsibilities, establishment of cooperation between the Agency and relevant bodies and organizations, and other legal and natural persons.

The Agency has sectors in charge of the professional, administrative, and technical activities related to the supervision of the implementation of the Electronic Media Law and the regulations based on this law.

The Sectors perform their activities in compliance with the plan of operation and agenda of the Agency.

The Sectors can use their names only together with full or abbreviated name of the Agency.

The Agency may have joint services in charge of the activities related to all sectors of the Agency.

Article 54

The Sectors shall be managed by Deputy Directors, appointed and revoked by Agency Director.

The citizens of Montenegro, with residence in Montenegro, university degree and at least five years of professional experience may be appointed as the heads of Sectors.

Deputy Directors shall be appointed for a period of four years with the possibility of reappointment.

People who are not eligible for Council members in compliance with the Electronic Media Law shall not be appointed as Deputy Directors.

Director may appoint one or more Advisers to Director, when certain activities of the Agency require specific expertise or experience.

Article 55

Agency Director may revoke Deputy Director if they:

- violate the law and general documents of the Agency;
- fail to implement the programme documents of the Agency;
- submit a written request for revocation.

Article 56

The Rulebook on Internal Organization and Job Classification shall regulate the internal organization of the Agency (Sectors, Departments, joint services, etc.), especially: organizational units and their scope of activities, manner of management, programme and discharge of duties, authorities of the employees, as well as the specific conditions for the groups of jobs and tasks with respect to professional qualifications and other conditions they require.

Legality of work

Article 57

The activities of the Agency shall be performed in compliance with the provisions of the Electronic Media Law, other laws and regulations, this Statute and other documents adopted on the basis of the law and Statute.

Agency Director shall be accountable to the Council for the legality and success of Agency's activities and implementation of its plans, in compliance with the Electronic Media Law.

Agency Director shall be obliged to timely inform the Council in writing about all relevant events and important issues.

Agency Director may suspend the implementation of every document of the Agency if they believe that it violates the law, and they are obliged to inform the Council about that in writing within 48 hours.

The Council's decision on that matter shall be binding.

Article 58

Agency Director may set up professional advisory bodies and working groups comprised of the Agency's employees and people outside of the Agency and hire consultants for consideration of issues within the competence of the Agency and provision of professional support to the Agency's activities.

For the work in the bodies referred in paragraph 1 of this Article, remuneration may be defined by Director.

VIII BUSINESS OPERATIONS OF THE AGENCY

Sources of Funding

Article 59

The Agency shall be financed from:

- 1) one-off fees for registration of providers of AVM services;
- 2) annual fees for the issued licences for provision of AVM services (broadcasting fees, fees for provision of on-demand AVM services);
- 3) other sources in compliance with the Electronic Media Law.

The Government of Montenegro shall provide premises for the work of the Agency.

The Use of Funds

Article 60

Financial operations of the Agency shall be public.

All income and expenditure accounts of the Agency shall be subject to annual audit of an independent auditor, hired by the Agency Council.

Any surplus of income over expenditure, the Agency may use exclusively for the fulfilment of legal obligations.

Article 61

The financing of the Agency shall be done in compliance with the financial plan for every year adopted by the Council, no later than three months before the beginning of the financial year.

Overall expenses of the Agency's operations encompassed by the financial plan, including reserves for the unforeseen costs, shall reflect the realistic costs of the Agency necessary for the successful carrying out of its functions.

The financial plan shall be public and published on the website of the Agency.

Article 62

All fixed assets shall be registered as the property of the Agency.

Article 63

The funds for the renewal of fixed assets (depreciation) shall be registered and used at the level of the Agency on the basis of co-ordinated needs of its organizational parts, according to a decision of the Agency Director, with the consent of the Council.

Article 64

Financial assets of the Agency shall be kept on one or more bank accounts of the Agency, in compliance with the payment operations regulations.

The Agency may have separate bank accounts for allocation of funds on the basis of reserves, joint expenses, investments, donations, and other special-purpose allocations.

The Agency is obliged to give account of the overall business results in the annual statement of account, with biannual statements of accounts.

IX SUPERVISION

Article 65

Supervision over the enforcement of the Electronic Media Law shall be done by the Agency in compliance with the Articles 138-145 of the Electronic Media Law.

The Agency shall supervise the implementation of the Electronic Media Law through an authorized person, in compliance with the law regulating the inspection control.

X GENERAL DOCUMENTS OF THE AGENCY

Article 66

General documents of the Agency shall be the following:

- Statute of the Agency;
- Rulebook on the Internal Organization and Job Classification of the Agency;
- Rulebook on Addressing the Complaints of the Providers of AVM Services and Other Legal and Natural Persons;
- Code of Conduct of the Agency;
- Rulebook on the Occupational Safety of the Agency;
- Rulebook on the Reimbursement of Travel and Other Expenses of the Council Members and Employees of the Agency;
- Rulebook on the Business Secret of the Agency;
- Rulebook on the Financial and Accounting Operations of the Agency;
- Rulebook on the Encoding of Accounting Documentation of the Agency and the Council;
- Rulebook on the Disciplinary Measures of the Agency;
- Rulebook on the Housing Issues of the Agency;
- Instructions for Access to Information Held by the Agency;
- Other general documents in compliance with the law.

XI TRANSPARENCY OF WORK

Article 67

The Agency is obliged to inform the citizens about its activities by means of the media, its website, and in other appropriate manners resulting in the transparency of its work.

The Agency employees shall be informed about the terms and conditions of work and business activities of the Agency by the general documents and other decisions published on the notice board of the Agency, announcements on the meetings of employees convened by the Agency Director at least two times a year, or in any other adequate manner in compliance with the decision of the Council.

Article 68

The Council and Agency Director shall be accountable for the transparency of work.

The data on carrying out the activities, and business results of the Agency, as well as the decisions on the access to the business documentation shall be adopted by the Agency Director or other person authorized by them.

Official statements and announcements regarding the work of the Agency form the domain of their competence shall be given by the Council, Agency Director or other persons authorized by the aforementioned bodies.

XII BUSINESS SECRET

Article 69

All documents and data established as a business secret, whose revealing to unauthorized persons would damage the business or programme interest of the Agency, or a person who is a legal owner of the documents or data submitted to the Agency, shall be considered to be the business secret in compliance with the general document on business secret.

Business secret referred to in paragraph 1 of this Article shall especially be the following:

1. all data qualified as business secret in compliance with a separate law or other regulations;
2. all data qualified as business secret in compliance with a general document or other document of the data owner;
3. all data qualified as business secret in compliance with a general document of the Agency.

Notwithstanding the provisions of paragraph 2 of this Article, the data or documents that are publicly available in any way or published on the basis of separate regulations shall not be considered to be business secret.

All documents and data considered to be business secret shall be marked as classified.

Article 70

Chairman and members of the Council, Agency Director and employees, as well as other legal and natural persons the Agency commissioned to carry out certain activities, are obliged to keep the secrecy of data that has been classified as such by an official document of the competent authority, or a business secret, regardless of how they accessed the data during or after their term of office or employment as long as the data is classified as secret or until they are exempt from that duty by a decision of a body or data owner.

All employees of the Agency are obliged to keep secret the documents and data considered to be business secret, regardless of how they accessed those documents and data.

The obligation of keeping a business secret shall continue even after the end of the term of office or employment as long as the data is classified as secret or until they are exempt from that duty by a decision of a body or data owner.

The Agency Director or another person authorized on the basis of general act or authorization of the Director shall be directly responsible for determination of business secret.

XIII RIGHTS OF THE EMPLOYEES

Article 71

The Agency shall employ the people who, in addition to general conditions defined by the law, meet special conditions defined by a rulebook on the internal organization and job classification.

The employment shall be based on the general regulations related to labour and employment.

The Agency shall employ its workers for an indefinite period.

The employment may also be for a fixed period, in the cases and under the conditions defined by the law.

The general labour regulations shall apply to the rights and obligations related to the employment of workers.

Agency Director shall decide on the rights and obligations of workers related to their employment.

Article 72

The Agency employees shall be entitled to give initiatives, suggestions and opinions concerning all general documents and decisions related to the organization and evaluation of work, advancement, salaries and the standard of living.

Article 73

The Agency employees shall be entitled to:

- initiative and answer to that initiative if it is related to their job;
- timely information about the changes of their employment status;
- give their opinion regarding all matters related to the organization of working process;
- answer of Director, Deputy Director or other authorized person related to the issues from the domain they deal with.

Article 74

The Agency employees shall have the right to establish trade union organizations in compliance with the law.

Agency Director is obliged to provide the conditions for the work of trade union and union commissioners in compliance with the law, Collective Agreement and other regulations.

Agency Director and the trade union organization of the Agency employees shall conclude a Collective Agreement of the Agency.

Article 75

The Agency employees shall have the right to strike.

The Council is obliged to prescribe the minimum service that must be provided during a strike of the employees, with previous consultation with the trade union of the employees.

XI OCCUPATIONAL SAFETY AND ENVIRONMENTAL PROTECTION

Occupational safety

Article 76

The Agency is obliged to provide occupational safety in compliance with the law, secondary legislation, international standards and the nature of work.

Environmental protection

Article 77

While carrying out its activities, the Agency is obliged to provide the preservation and protection of the environment – both natural and created values.

The Council, Agency Director and the Agency employees shall have the right and obligation to take the measures of protection and promotion of the environment during their work.

All employees are obliged to warn the Council and Agency Director of any activities that jeopardize the environment.

An employee shall have the right to refuse to carry out any work or task that would inflict irreparable damage to the environment.

X TRANSITIONAL AND FINAL PROVISIONS

Article 78

General documents of the Agency shall be adopted no later than six months from the date of coming into effect of this Statute.

Article 79

Authentic interpretation of the provisions of this statute shall be given by the Council.

The amendments to the Statute of the Agency may be initiated by the Council members and Agency Director.

Article 80

On the day of coming into effect of this Statute, the Statute of the Agency number 01-6/1 of 23 April 2003 shall cease to be valid.

Article 81

This statute shall come into effect on the date of its adoption by the Council.

**Chairman
of the Electronic Media Agency Council**

Ranko Vujović