



KOMISIONI I PAVARUR PËR MEDIA  
NEZAVISNA KOMISIJA ZA MEDIJE  
INDEPENDENT MEDIA COMMISSION



# **INDEPENDENT MEDIA COMMISSION**

**Annual Report**

**2007**

**presented to**

**Assembly of Kosovo**

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## Introduction

The Council of the Independent Media Commission is honoured to present, on the basis of a draft prepared by the Chief Executive of the IMC Office, its second annual report to the Assembly of the Republic of Kosovo, as required by Article 3.8 of Law No. 02/L-15 on the Independent Media Commission and Broadcasting.

The Independent Media Commission, as an independent regulator for broadcasting in Kosovo, was established by the Law no. 02/L-15 of the Assembly of Kosovo, is guided by the law, its Broadcasting Policy, based on best European human rights practice, and by the public interest. It regulates the Broadcasting Frequency Spectrum in Kosovo, as well as licenses public and private broadcasters. Its decisions affecting broadcasters can be appealed against to the Media Appeals Board. The Board act independently and its decisions are final, but may be subject to procedural review by the Supreme Court of Kosovo.

### The Broadcasting Landscape in Kosovo

As a result of the work of the Independent Media Commission, building on the efforts of the Temporary Media Commissioner, there are now in Kosovo 114 broadcasters licensed by the IMC. Licensing of the actual broadcasters according to the coverage area is divided into 4 categories:

- Kosovo-wide broadcasters;
- Local broadcasters;
- Low-power Broadcasters;

Division according to categories:

3 Kosovo-wide televisions (1 public television, and 2 private televisions)  
4 Kosovo-wide radio stations (2 public radio stations, and 2 private radio stations)  
15 local televisions  
73 local radio stations  
3 low-power televisions  
16 low-power radio stations.

According to the main language in which it is broadcasted:

70 broadcasters broadcast in Albanian language as the main language, including the public broadcaster (RTK)  
35 broadcasters broadcast in Serbian language as the main language  
3 broadcasters in Bosnian language  
3 broadcasters in Turkish language  
2 broadcasters in Gorani language, and  
1 broadcaster in Roma language.

According to the division per region, in Kosovo there are:

Gjilan: 34 media broadcasters;

Mitrovica: 20 media broadcasters;  
Peja: 14 media broadcasters;  
Prishtina: 26 media broadcasters;  
Prizren: 20 media broadcasters.

One third (1/3) of the broadcasters, are broadcasters in Serbian language and almost 30% of all broadcasters offer program in at least two languages spoken in Kosova. This is in line with one of the IMC's objectives to have a variety of broadcasters in Kosova for each community, by offering them access to information in their respective language.

Currently, on the territory of Kosova, 208 frequency channels are being used:

52 TV channels, and  
156 FM channels

Frequencies are allocated for five types of services:

37 frequency channels are used for national coverage (18 TV channels, 16 FM and 3 local);  
53 frequency channels are used by KFOR, (11 TV channels and 42 FM channels);  
92 local frequency channels, (17 TV channels and 75 FM channels);  
22 frequency with low power, (6 TV channels and 16 FM channels); and  
4 international FM frequency channels (BBC, RFI, DW, and VOA).

All these frequencies are used by five (5) types of media:

3 TV + 4 FM National Media  
11 TV + 42 FM KFOR media  
17 TV + 75 FM local media  
3 TV + 16 FM media with low power  
4 FM International

### Overview of the Report

This report provides an overview of the work of the three bodies comprising the Independent Media Commission in 2007, the Council, the Media Appeals Board and the Office of the Chief Executive.

In the interest of transparency, the report also outlines the IMC's plans for 2008, so that the Assembly of the Republic Kosova, public opinion and broadcasters and others operating in the broadcasting landscape, can be informed of planned activities for the current year. This includes:

1. Beginning of the re-licensing process of all media broadcasters as required by the Law on the IMC
2. Licensing of the cable operators and distributors of programs through cable service
3. Approval of the Regulation for Broadcasters on Protection of Minors from harmful program contents
4. Determination and implementation of the annual licensing fee
5. Composition of the strategy for digital frequency plan in Kosova

In one instance, the report goes beyond 2007. In the chapter on the Media Appeals Board and the execution of its decisions, it provides a full chronology of events – starting in 2005 and ending in 2008 – leading to the closing of an illegal broadcaster and the launching of a new tender to licence

a new broadcaster for the same area. This was necessary to provide full explanation of the IMC's action, The IMC must be rigorous in the application of the law and promotion of the rule of law in broadcasting, but it took these unavoidable and necessary decisions after many years of giving the broadcaster opportunities to come into compliance with the licence and the decisions of the IMC and the Media Appeals Board.

#### Need for a Full IMC Council

Since August 2007, the IMC Council has not been complete in composition. The initial mandates of the two local members from the civil society ended. The IMC finished the process of new nominations within the period foreseen by the law, and submitted them to the Assembly. Parliamentary procedures could not, however, be completed. This presented an obstacle for the functioning of the Council, not least in terms of its inability to elect a new chairperson. The IMC expresses the hope, given its ambitious plans for 2008, that these procedures may now be speedily completed.

#### Conclusion

The IMC Council wishes to put on record its high appreciation of the work of the Chief Executive, Ms. Naile Selimaj – Krasniqi, and of the staff of her Office.

The IMC Council wishes to extend its thanks to the Media Appeals Board, led by its President, Prof. Dr. Wolfgang Benedek, for its work.

The IMC Council wishes to acknowledge the substantive assistance it has received from the OSCE Mission in Kosovo, and especially from its Senior Legal Adviser, Dr Charles Ehrlich.

## **IMC LEGAL BASIS**

On 21 April 2005, Kosova Assembly adopted the Law No. 02/L15 on the Independent Media Commission and Broadcasting, promulgated by the SRSG on 8 July 2005 by UNMIK Regulation No. 2005/34. The Law on the IMC entered into force on 8 September 2005.

According to the Article 3.8 of the Law on the IMC, the IMC Council shall prepare and present an annual report to the Assembly of Kosova, within two months after the end of every calendar year, including full data related to the determination and implementation of broadcasting policy, issuance of licenses, and complaints, implemented sanctions and decisions made in relation to them, financial activities, other activities of broadcasting and projected objectives for the next year. The annual report shall be made public.

## **THE INDEPENDENT MEDIA COMMISSION**

The Independent Media Commission (IMC) is the independent broadcast regulator in Kosova. The purpose of a broadcast regulator is to distribute a scarce public resource – the frequency spectrum – transparent and fair, in a way that best serves all the citizens of Kosova. The IMC promotes ethical and technical standards among Kosova's broadcast media and it applies a body of regulations that hold local broadcasters to European standards of professionalism and fairness in their news coverage. Through the administration of its broadcast frequency plan, the IMC also strives to maintain fairness in competition among broadcasters. The IMC's activities include content monitoring, commenting on media-related legislation, evaluating complaints, and enforcing the legislative framework, regulations and the terms of licenses issued by the IMC.

The IMC encourages professional development and financially secure public and private media. It must ensure that media respect the human rights on freedom of expression and diversity of opinion; on fairness and accuracy, not only in informative programs but also in advertising. The IMC also ensures that media protect the interests and sensitivities of children, the rights of minorities and the varied cultures that make Kosova a unique place in Europe. The IMC does this in a transparent and consultative manner with aim to ensure respect of the public as well as from the broadcasters.

The Independent Media Commission is composed of three bodies:

- The Council
- The Office of the Chief Executive, and
- The Media Appeals Board

## THE IMC COUNCIL

The Council is decision-making body of the IMC. It is composed of seven (7) members of whom five (5) are local members whilst two (2) are international members. Four local members are nominated by Civil Society and one is nominated by the Kosova Assembly. All of them are appointed by the Kosova Assembly. The two international members are appointed by the Special Representative of the Secretary General (SRSG).

The Council directs the Commission with respect to strategic matters that concern the application of the IMC law. The Council issues acts, instructions, policies and duties that are necessary for the effective functioning of the Independent Media Commission. Based on the recommendations from the Office of the Executive Chief, the Council decides on issuing licenses and does their renewal, granting to the broadcasters the right of frequency usage in the Broadcast Frequency Spectrum. For the violations of the IMC regulations, and relevant laws and regulations or for the violations of the terms of license by the broadcasters licensed by the IMC, the Council has the right also to pronounce sanctions.

**For the period on which is being reported, respectively from August 2007, the IMC Council was consisted of:**

Milena Djeric – Vice Chairperson  
Filloreta Bytyçi – Member  
Adil Pireva – Member  
Karol Jakubowicz– Member  
Sandra Basic Hrvatin – Member

**While in the period from January-August 2007, the IMC Council was consisted of:**

Isuf Berisha – Chairperson  
Milena Djeric – Vice Chairperson  
Filloreta Bytyçi– Member  
Iilir Dugolli – Member  
Adil Pireva – Member  
Sandra Basic Hrvatin – Member  
Katrín Nyman Metcalf – Member

### Mandate of the members of the Council

According to the Article 5 of the IMC Law:

*“a. the initial term of appointment for one international member shall be eighteen (18) months; b. the initial term of appointment for another international member shall be twelve (12) months;”*

*“As an exception to Article 4.2 (a) of this Law, the initial term of two (2) Civil Society Council members shall be one (1) year for each of them, and shall be elected through a lottery drawn by the Temporary Media Commissioner in a Public”*

Isuf Berisha and Ilir Dugolli, local members nominated from the civil society, had mandates of one-year drawn by a lottery in accordance with the law, as well as the international member Katrin Nyman Metcalf had one-year mandate. Their mandate ended on 28 August 2007.

#### *Nominations of the new members of the IMC Council*

According to the Article 4.4 b of the IMC Law,

*“The Executive Chief of the IMC shall initiate the nomination procedure for the Civil Society Council members, by issuing a public invitation not later than 3 (three) months before the expiration of the term of office of the Civil Society Council Member”.*

The Executive Chief has initiated the procedure of nomination for the two Council members on 10 April 2007, a procedure that ended on 9 May 2007. The process was open and after the end of the process the names of the nominees were made public through a press conference organized by the IMC and the same was published on the IMC web page.

On 14 June 2007, the IMC has submitted to the Assembly of Kosova the names of four candidates for the two positions of local members of the IMC Council. On 17 September 2007 the Assembly of Kosova has established the Ad-Hoc Commission as it is determined in the Article 4.4 (e) for electing two members. This Commission was met on 9 November 2007. The Assembly of Kosova did not manage to hold a session for appointment of two new members of the IMC Council.

After August 2007, in absence of two members, the IMC Council did not have quorum of local members to hold their meetings which is very crucial for the Council’s work, since not always can be ensured the participation of international members. In this phase of the IMC development it is needed to have meetings more often, and not at least every three months as it is determined by the Law, with the purpose to complete the secondary legislation.

*In accordance with the Article 4.2:*

*“International members of the Council shall be appointed by the Special Representative of the Secretary General (SRSG).*

SRSG has appointed Dr. KAROL JAKUBOWICZ as a second international member of the Council of Independent Media Commission. Mr. Jakubowicz started his mandate on 28 August 2007, and his mandate will last to 28 August 2008.

**Karol Jakubowicz**, Ph.D., was until recently Director, Strategy and Analysis Department, the National Broadcasting Council of Poland, the broadcasting regulatory authority, and Chairman of the Steering Committee on the Media and New Communication Services at the Council of Europe. He has worked as a journalist and executive in the Polish press, radio and television for many years. He has been Vice-President, Television, Polish Radio and Television; Chairman, Supervisory Board, Polish Television and Head of Strategic Planning and Development at Polish Television. He has been active in the Council of Europe, in part as former Chairman of the Committee of Experts on Media Concentrations and Pluralism, Chairman of the Standing Committee on Transfrontier Television.

With the solution of the political status of Kosova, the members of the Council remains the same, seven (7), from which the two international members will be replaced with local members appointed in accordance with the procedures foreseen in the Article 4.4 of this Law.

## **THE WORK OF THE COUNCIL DURING 2007**

### **Licensing of the local radio in Roma language in Prizren**

Taking into account the importance of providing access to all communities that live in Kosova to broadcast program in their respective languages, during 2007, the Council of the IMC decided to make an exception and accept new applications for a radio station in Roma language in the town of Prizren. The tender was opened on 5 February 2007 and was opened for until 30 days, respectively until 5 March 2007.

The Council of the Independent Media Commission has determined evaluation criteria for the applications by deciding relevant factors for qualification of the candidates as follows:

- Proposed program type and format, taking into account the requests for such services;
- The quantity of self-produced programming;
- Presentation of a clear and practical plan for organization and maintenance of a radio station engaged in providing public service programming for the Roma community;
- Professional ability to establish and manage a professional radio station and proven capacity to fund such a station; and
- Full compliance with the general applicable IMC rules on qualifications for a license.

After public announcement with regard to the tendering of the frequency for a local radio station in Prizren, Office of the IMC received two applications from interested candidates for this frequency. Evaluations of the applications were done by the Licensing Division, and afterwards reviewed by a panel composed of three members of the IMC Council. In the Council meeting, held on 2 April 2007, the decision was taken for selection of the most successful candidate for the radio station in Roma language. The other candidate used his right to appeal and within the foreseen deadline appealed to the Media Appeals Board, who after its review rejected the appeal due to lack of facts offered by the appellant. The successful candidate for the IMC License, Radio Romano Avazi started with broadcasting of the program on November 2007.

### **Sub-legal acts of the IMC Council during 2007**

During 2007 the Council of the IMC has approved the following sub-legal acts<sup>1</sup>:

1. CIMC – 2007 01 - Decision on Level, Manner of Determination and Payment of Fees for Licenses for Radios and TVs.
2. CIMC – 2007 04 – Regulation on Cable Distribution of Radio and Television Programs in Kosova
3. CIMC – 2007 05 – Decision on Level, Manner of Determination and Payment of Fees for Licenses for Cable Operators and Cable Program Service Providers.
4. CIMC – 2007 06 – Advertising Rule for Media Broadcasters.

Article 3.14 of the IMC Law determines that:

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<sup>1</sup> Annex 1 Sub-legal Acts approved by the IMC Council



*“Every time the Council plans to issue a specific act, respectively a regulation which regulates certain relations, it has the duty to make such acts available to a wide number of entities. The public and interested parties shall be given no less than 14 days to provide comments on the draft act. The Staff of the Commission has the duty to make into consideration the opinions of the public on the proposed acts.”*

During drafting of these sub-legal acts, the IMC acted in full compliance with this legal provision. Further, before approval of the Decision CIMC – 2007 01 “Decision on Level, Manner of Determination and Payment of Fees for Licenses for Radios and TVs” the IMC organized also a public hearing with the broadcasters. This public hearing was held in Prishtina on 15 March 2007.

### **Sanctioning Decisions of the IMC Council**

Based on the recommendations of the Office of Chief Executive, the IMC Council issued sanctioning decisions for some broadcasters, as follows:

**Complaint with the number 2007/01**, for the violation of the Decision of the IMC Council, the Council issued a decision by which it set a fine in the amount of 1000.00 euro for the broadcaster. This broadcaster did not appeal on the Decision of the IMC Council and did not pay the fine. New case is open 2007/01&2007/03.

**Complaint with the number 2007/03**, the IMC Council issued a decision by which it orders the broadcaster to return to its broadcasting channel 47, as well as fined the broadcaster with 500.00 euro.

**Complaint with the number 2007/01&2007/03**, for the violation of two previous decisions of the IMC Council, for these violations the Council decided to suspend the license of the broadcaster for the period of three months. The broadcaster did not appeal at the Media Appeals Board regarding the decision of the IMC Council and the decision was executed.

**Complaint with the number 2007/07**, the IMC Council issued a decision by which it fined the broadcaster with 500.00 euro, the Complainant appealed at the Media Appeals Board.

**Complaint with the number 2007/14**, the broadcaster violated the decision of the IMC Council uphold also by the Media Appeals Board. Because of the violation of previous decision of the IMC, the IMC Council decided to suspend the license of the broadcaster for the period of three months and ordered it to start broadcasting from the previous licensed location, and if it does not return to the licensed location until this decision enters into power its license will automatically be revoked.

**Complaint with the number 2007/15**, the IMC Council issued a decision in which it set a fine to a broadcaster in the amount of 1000.00 euro. The Complainant appealed at the Media Appeals Board regarding this decision of the IMC Council.

### **The Role of the IMC Council on the Ad Hoc Commission for the Board of RTK**

Aiming to fulfill the legal obligation that derives from the Article 23c. of this Law, on 16 February 2007, at the Office of the Independent Media Commissioner, on the invitation of the IMC Council was held the first constitutive meeting of the Ad Hoc Commission for selecting the candidates of the Board of public broadcaster, Radio Television of Kosova.

The Ad Hoc Commission was composed of 7 members: Mr. Besim Bokshi, from the Academy of Sciences and Arts of Kosova, which at the same time was also the chairperson of this commission,

Mr. Isuf Berisha, Ms. Milena Djeric, and Mr. Ilir Dugolli from the IMC Council and Ms. Vjosa Dobruna, Mr. Milazim Krasniqi and Ms. Snezana Karadjic from the actual Board of RTK.

At its first meeting on 16 February the Ad Hoc Commission reviewed criteria's set by law on the nomination of the candidates for members of the Board of RTK, functions and responsibilities of the Board and decided for IMC to make public call for proposals, which would last from 19 February 2007 to 19 March 2007. The IMC announced the public call for nominations on electronic and written media's, as well as on the IMC web page. In this period a total of 77 candidates were nominated.

On 21 April 2007, the Ad Hoc Commission decide to publish the names of nominees but because that from the minorities were recommended only one candidate except from Turkish minority, and by aiming to have competition also within minorities, the Ad Hoc Commission decided for IMC to make another public call for nominations not only from minorities, but for all. The nomination period lasted two weeks from 24 April 2007 until 8 May 2007, and during this timeline 25 additional candidates were nominated. Nominations from the first process remained valuable and there was no need to repeat them.

At the meeting held on 23 May 2007, the Ad Hoc Commission determined the procedure and the way of selection of nominees. On 6 June 2007, the Ad Hoc Commission, from 102 nominees, by secret vote did the selection of 18 nominees for members of the Board of RTK. The names of the nominees were published in the press conference of the Ad Hoc Commission for the RTK Board that was held on 07 June 2007.

On 8 June, the Ad Hoc Commission presented to the Kosova Assembly, the names of 18 nominees, 9 of whom would be selected for members of Board of RTK. The selection was supposed to be made by a special Ad Hoc Commission, composed from one member of each political entity represented in the Assembly, which will select by a simple majority on of the two candidates for each position, appointments of who for the Board would be confirmed by act pro-forma of all the Assembly. The Ad Hoc Commission for RTK Board was established on 17 September 2007.

According to Article 23 of the Law on RTK – No. 02/L-47, the Board of RTK is composed of 9 members that are appointed by the Kosova Assembly. The Board is governing body of RTK.

## **OBJECTIVES FOR 2008**

### *Beginning of the re-licensing process of all media broadcasters as required by the Law on the IMC*

All broadcasters operating in Kosova have temporary broadcasting licenses issued by the Temporary Media Commissioner. These licenses are valid until the Council of the IMC conducts licensing in accordance with the Law on the IMC and Broadcasting. According to the Law on the IMC and Broadcasting, the Council shall issue long-term licenses, i.e. 7 years for the radio and 10 years for the TVs.

During last three months, the IMC started with the preparations for the re-licensing process, with the purpose of creating the legal bases which would be applied through a fair and transparent process.

### *Licensing of the cable operators and distributors of programs through cable service*

In July 2007, the Council of the IMC adopted the Regulation on Cable Distribution of Radio and Television Programs in Kosova as well as the Decision on Licensing Fee for these Operators and Cable Service Providers. Based on this Regulation, IMC has initially registered these active operators who due to lack of legal framework were unable to be licensed up to now. During August 2007 at the IMC are registered 16 cable operators, by which started the legalization of their activities. The IMC plans in 2008 to license active cable operators, by which will be regulated also this new broadcasting field in Kosova.

#### *Approval of the Regulation for Broadcasters on Protection of Minors from the harmful program contents*

Aiming to ensure protection of Minors from the program contents that may have negative influence on their physical, mental and moral development, the IMC Council will draft and approve the Regulation for Broadcasters on Protection of Minors from the Harmful Program Contents. The IMC will create working groups with psychologists, sociologists and educators who will help on drafting of this regulation together with the Guideline for implementing it.

This Regulation will enable media broadcasters to categorize programs based on the age of the audience as well as provide the manner for labeling and choosing of the time for transmitting of the programs, which may have negative influence on the physical, mental and moral development of the minors.

#### *Determination and implementation of the annual licensing fee*

Broadcasters use frequencies that are public resources. The Council should determine a scheme for the licensing fee, for different categories of broadcasting licenses that will be paid by the licensees every year. In April 2007, the Council adopted the decision for the licensing fee for Radio and TVs in Kosova. But after complaints by some of the media broadcasters, the Media Appeals Board returned this decision for review. The Council will review the decision and based on the decision of the Media Appeals Board will decide on the licensing fee for the media broadcasters.

#### *Composition of the strategy for digital frequency plan in Kosova*

The IMC Law authorizes the IMC to regulate the digital broadcasting. In the IMC Annual Report of 2006 was presented the digital issue (pg.19), what is and what are implications of disregard of Kosova as a single unit, by the International Telecommunication Union (ITU), and IMC as responsible regulator for planning and management of broadcast frequency, in this process.

In August 2007, the IMC raised at SRSG and the Government of Kosova the problem of digitalization and disregard of Kosova in the process of coordination and determination of the digital frequency plan for TVs. As a result of this, SRSG addressed the request to the ITU to provide UNMIK the official information of the results of RC-06 and to take Kosova into consideration as a single unit. The ITU did not reply to this letter.

Despite political developments and recognition of Kosova or not as a unit by the ITU, the IMC will start with preparations, to compile a strategic plan of transition from analogue to the digital system. In the budgetary request for 2008 that IMC submitted at the Ministry of Economy and Finances of the Government of Kosova, the IMC presented the project of digitalization in Kosova. The purpose of the Digitalization Project "Kosova Digital Frequency Plan for terrestrial radio and TV broadcasters" is to make all necessary technical preparations for digital planning.

Actually, administration of the frequencies in the competence of the IMC is conducted based on agreement ST61, for analog TV broadcast and GE84 for radio broadcast in VHF/FM for bands 87.5-108 MHz, etc..

## MEDIA APPEALS BOARD

According to the UNMIK Regulation 2000/36, Article 4.4, the Media Appeals Board (MAB) was composed of two international members and one local member. By entering of the Law on the IMC and Broadcasting into force, the composition of MAB changes and now MAB is composed of two local members and one international member.

Media Appeals Board (MAB) has been established in accordance with Article 21 of the Law on the Independent Media Commission and Broadcasting. It is an independent body in exercising its functions. It adjudicates appeals of parties that are directly affected by the decision of the Council of the IMC.

The MAB may uphold, modify or rescind any decision of the IMC Council regarding the submitted appeal.

### Process of nomination of the members to the MAB

The process of nomination of the members of MAB, the IMC started on October 2006 in order to establish the MAB in its new composition as requested by the Law on the IMC, where it is provided that two members shall be local while one member shall be international.

In accordance with Article 22 of the IMC Law, two local members of the MAB were designated by the Supreme Court of Kosovo and on 11 January 2007 were appointed by the Assembly of Kosovo after public solicitation of nominations by the Council, whereas, the international judge was appointed as the President of the Media Appeals Board (MAB) by the Special Representative of the Secretary General, based on the recommendations made by the Deputy Special Representative of the Secretary General for Institution building.

### Establishment and members

Pursuant to the IMC Law, the new MAB was constituted on 6 February 2007. MAB is now composed of one international member, Prof. Dr. Wolfgang Benedek, President, and two local judges: Judge Anton Nokaj and Judge Avdi Dinaj. The new MAB approved Rules of Procedure on 7 May 2007.<sup>2</sup>

### Meetings/cases/decisions of MAB

During 2007 the Media Appeals Board met on February, June, August, October and December.

#### **In its meeting held on February, the MAB reviewed the following Appeals:**

**Appeals No. 2006/19 & 2006/20.** Broadcasters appealed the Decision of the IMC Council and Media Appeals Board decided to lower sanctions imposed by the IMC Council.

**Appeal No. 2006/22.** Broadcaster appealed the Decision of the IMC Council. The MAB denied the Appeal and decided to uphold the Decision of the IMC Council.

#### **In its meeting held in June, MAB reviewed following Appeals:**

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<sup>2</sup> Annex 3 Rules of Procedure of the MAB

**Appeals No. 2006/21 & 2006/24.** Broadcasters have appealed the Decision of the IMC Council. The Media Appeals Board upheld the Decision of the IMC Council to revoke the license of the Appellant.

**Appeal No. 2007/06.** Broadcaster appealed against the licensing decision of the IMC Council by which it was decided that license for the radio station in Roma language is granted to the other applicant. The Media Appeals Board denied the appeal as ungrounded and upheld the decision of the IMC Council to grant the license to the other media broadcaster.

**In its meeting held during August, MAB reviewed Appeals No. 2007/09, 2007/10, 2007/11 and 2007/12,** broadcasters have appealed the decision of the IMC Council CIMC 2007/01 on Level, Manner of Determination and Payment of Fees for Licences for Radio and TVs. Media Appeals Board returned the decision on Level, Manner of Determination and Payment of Fees for Licences for Radio and TVs to be again reconsidered by the IMC Council.

**In its October meeting, MAB** has reviewed the objection of KOHA group against the Advertising Rule, adopted by the IMC Council. MAB decided that it is competent only for the appeals against the decisions of the IMC Council, while with regard to the regulations as acts of a general nature, they are not under the mandate of the Media Appeals Board.

**In its December meeting, MAB reviewed Appeal No. 2007/25;** that was made against the Decision of the IMC Council on the Level, Manner of Determination and Payment of Fees for Licensing of the Cable Operators and Cable Distribution of Radio and Television Programs. The Media Appeals Board denied the Appeal as ungrounded and upheld the decision of the IMC Council.

#### **Decision of MAB regarding the Complaint 2006/07 and its execution by the IMC**

In the Independent Media Commission Annual Report of 2006, at “*Presented cases in front of the Media Appeals Board*” was given an explanation for the Complaint with the number 2006/07.

*“Complaint with number 2006/07, MAB held two sessions. The first session was postponed in order to take an experts opinion which would be presented to MAB until the end of September 2006. Foreign experts engaged by the IMC and broadcaster (TV Mitrovica) evaluated that it is possible to realize the technical terms and conditions determined by the license of the broadcaster, which was contested by the broadcaster. MAB has decided that if due to atmospheric conditions broadcaster can not turn its antennas according to the technical parameters determined by the license with the period of 30 days then this deadline will be postponed until 1 May 2007. If the broadcaster does not respect this decision then after this date its license will automatically be revoked”.*

Case 2006/07 is the case of TV Mitrovica. This case started in 2005 and was closed in December 2007. IMC summarized in this report the chronology of this case:

- On 16 February 2005, TV Mitrovica submits the request for amendment of the license in which it requests bigger expansion of the local TV signal, and that except Mitrovica to cover with signal also Skenderaj, Vushtrri and Obiliq.
- On 27 April 2005, the Temporary Media Commissioner issued a decision by which it changes the license of TV Mitrovica, approving expansion of the coverage area according to the request of the director of TV Mitrovica. The decision was issued in condition that if TV Mitrovica in continuance fails to fulfill the conditions of this amendment in a period of

- 90 days from the day of receiving the amended license, then TMC may issue an order to return back the previous broadcasting terms and conditions of the TV Mitrovica.
- On 11 May 2005, TV Mitrovica signs the new amended license. With the endorsement of this license all previous terms of license of the TV Mitrovica are annulled and TV Mitrovica agreed to comply with the terms and conditions of the new license.
  - After making measurements in the field, the Temporary Media Commissioner found that TV Mitrovica did not fulfill the conditions determined in the Decision of 27 April 2005, respectively it is broadcasting in an unlicensed broadcasting area, therefore, on 30 December 2005 TMC issues a Decision that TV Mitrovica to return its antennas in the previous licensed location in the center of Mitrovica and to act in compliance with the technical terms and conditions of the license of 3 September 2001.
  - After Appeal of TV Mitrovica at the Media Appeals Board (MAB) against this decision, in the session held on 28 February 2008 2006 MAB was not satisfied with the manner of sending the decision of TV Mitrovica (sending after 16:00 o'clock), and requested from the Temporary Media Commissioner to send again the decision to TV Mitrovica.
  - On 14 March 2006, the Temporary Media Commissioner reissues licensing decision 2005/01a of date 30 December 2005, as well as the technical terms and conditions, which were attached to this decision in compliance with the decision of MAB. By this Decision the Temporary Media Commissioner orders TV Mitrovica to hand over to TMC the link equipment, necessary for broadcasting of its signal from its studio to the location in Cernusha Hill, from where they were broadcasting. According to this decision, TV Mitrovica had to hand over this link equipment to the Office of the TMC not later than 17:00 o'clock, seven days after issuance of this decision. The TMC would return this equipment to TV Mitrovica after presenting the evidential facts that it removed all broadcasting equipment from the Cernusha Hill. According to this Decision, if TV Mitrovica would not hand over the link equipment to the TMC within the deadline determined in the Decision, TV Mitrovica was obliged to pay the fine in amount of 6,000.00 Euro. If TV Mitrovica again does not act in compliance with the terms and conditions of its license and does not pay its fine in the date when the fine becomes final, TMC in this case orders that the license of TV Mitrovica be suspended until it fulfills both: (a) acts in compliance with the terms and conditions of the license and (b) completely pays the fine.
  - On 21 June 2006, MAB held a hearing regarding the appeal of TV Mitrovica against the TMC Decision of 14 March 2006. Regarding the declaration of TV Mitrovica that technically it is impossible to follow the terms and conditions of the license given by the TMC on 11 May 2005, MAB decided that an opinion of an expert should be taken before the decision regarding this appeal is taken. Pairs either should agree for a common expert, or each pair will propose their experts, who then together will go in the location of the transmitter in Cernusha Hill to determine technical possibilities of broadcasting according to the terms and conditions of the license of TV Mitrovica. By this decision MAB adjourns its session for this case pending the report from the experts. The Board instructed pairs to undertake this investigation and to submit the report until the end of September 2006.
  - On 28 and 29 September 2006, MAB received the experts' reports regarding the case of TV Mitrovica. This team consisted of technical expert engaged by the IMC, Mr. Stojan Davcev from DASTO Company (Skopje, Macedonia) and the technical experts engaged by TV Mitrovica, Mr. Dragan Jovic and Mr. Nebojsa Radosevic from ASTRATECH Company (Nis, Serbia). In this report the experts came to the conclusion and agreed that the emission diagram foreseen by the license of TV Mitrovica of date 11 May 2005, technically is possible to be realized.
  - On 10 November 2006, the Media Appeals Board held a hearing with the purpose to review the reports of the experts for the case of TV Mitrovica.

- On 27 November 2006, after reviewing the reports of the experts the Media Appeals Board issued a decision on TV Mitrovica. In the decision it is said that based on the opinions of the experts and the hearing held regarding this case, the Board decided that:
 

*“TV Mitrovica is ordered to turn its antennas in compliance with the terms determined in its license of 11 May 2005, within the period of 30 days after receiving this decision. Further, in the decision it is said that if because of the atmospheric conditions it will not be possible for the Complainant to fix its antennas in compliance with the terms of the license within the period of 30 days, the Board orders the Complainant to turn its antennas in compliance with its license issued on 11 May 2005 as soon as possible, not later than 1 May 2007, otherwise its license automatically will be revoked that date.”*

*(MAB Decision 2006/7, paragraph 6 and 7)*

After MAB Decision, the IMC in continuance monitored the case in order to evaluate if the broadcaster is acting in compliance with the decision.

- On 23 April 2007, the IMC monitored the TV Mitrovica from the town of Ferizaj and in this case was registered a high level of signal of TV Mitrovica in the channel 42, in which channel TV Mitrovica broadcast its program from the broadcasting site in Cernusha. According the report of the frequency management team, based on the measurement done in Ferizaj, it was noticed that TV Mitrovica continued to broadcast and cover the areas for which it is not licensed.
- On 24 April 2007, the Independent Media Commission sent a letter to TV Mitrovica by which informed it for the obligation that it has by the MAB decision of date 27 November 2006. By this letter TV Mitrovica was informed that if until 1 May 2007, does not fulfill the obligations that come from the Decision of the Board, then from this date it will be considered as an illegal broadcaster and all legal measures will be taken as for any illegal broadcaster in compliance with the IMC Law.
- Frequency Management Division continued with measurements and on 15 and 30 May as well as on 6 June and 2 July 2007. Measurements found the presence of the signal of TV Mitrovica in the regions in which TV Mitrovica did not have a license to cover.
- On 8 June 2007, the IMC contacts the director of TV Mitrovica and requests a reply regarding the notice of 24 April 2007. Director of TV Mitrovica sent an email on 9 June, in which he apologizes that he did not inform the IMC on time for the changes that they have done in the system of antennas on 30 April 2007, with the purpose of accordance with the terms and conditions of the license. He said he can prove this with the bill of the service that was done, and the photos of the tower in Cernusha (which he says he will send us later). The Office replied to this email on 27 June 2007, by which was requested from the director of TV Mitrovica a meeting to discuss for this issue and was requested to bring the documents that he was referring to in the email of 9 June.
- On 29 June 2007, by email TV Mitrovica as evidence sent the photos of their antennas system. At the same day, the Chief Executive of the IMC met with the director of TV Mitrovica who also submitted a bill for the services of fixing the antennas system in which the name of the company was deleted. In this meeting was said to the TV Mitrovica that it is not broadcasting according to the terms and conditions of the license and was requested from him to come into compliance with the terms and conditions of MAB Decision, otherwise the Office must execute the Decision of the MAB. To the director of TV Mitrovica was also explained that the Office is not interested to confiscate the equipment of TV Mitrovica, but if TV Mitrovica does not come in compliance with the terms and conditions of the license, then the Office is obliged to enforce the MAB Decision. The meeting did not result in any understanding or attitude on solving the problem. During whole meeting was never denied from the director of TV Mitrovica that TV Mitrovica

broadcast out of terms of the license. To TV Mitrovica was made clearly that two evidences offered to IMC as an evidence of compliance with the MAB Decision will be verified by the Office and depending on the results the executive measures of the MAB Decision will be or not be undertaken.

- On 2 July 2007 the IMC staff went in Cernusha to verify if TV Mitrovica did the changes in the antenna system and found that the situation (direction and height of antennas) is unchanged. TV Mitrovica continued to broadcast contrary with the technical terms and conditions of the license issued on 11 May 2005.
- Since 28 August 2007 because of the expiration of their one-year mandate the IMC Council remained without two local members and one international member. During the period June-August there was not any meeting of the Council. After verification of non-respecting of the MAB Decision, the Office of the Chief Executive was obliged to act in accordance with the law and to undertake measures toward TV Mitrovica as an illegal broadcaster. Since the illegal broadcasting should be stopped, the Office of the Chief Executive did not undertake necessary measures in July waiting for the possibility of a meeting of the Council and offer of a possibility to have a television in Albanian Language in Mitrovica through opening of a tender which could be done only by the Council.
- On 9 November 2007 the Council was met, who decided that the tender for a TV in Mitrovica will be reviewed in the next meeting.
- On 26 December 2007, a Notice of Violation of the IMC Law was sent to TV Mitrovica, and was requested immediately to stop broadcasting, otherwise its broadcasting equipment will be confiscated.
- On 28 December 2007, the IMC issued the order for confiscation of the equipment of TV Mitrovica, by which the broadcasting equipment of TV Mitrovica in Cernusha were confiscated. Also after this date TV Mitrovica again started with illegal broadcasting and on 2 January 2008 was sent to them a notice of violation by which was requested to stop illegal broadcasting and to release the occupied channel, otherwise the IMC will take measures for confiscation of the broadcasting equipment. After this date TV Mitrovica is not broadcasting any more.
- On 7 February 2008, the IMC Council decided to open a tender, for the local TV in the municipality of Mitrovica, which it already did on 13 February 2008.

After some reactions, mainly political ones, that were done from the representatives of some political parties, on 6 February 2008, the President of the Media Appeals Board, Prof. Dr. Wolfgang Benedek, issued a declaration regarding the decision on TV Mitrovica.

#### *Declaration of the President of Media Appeals Board*

The Media Appeals Board has been dealing with the violation of its license by TV Mitrovica since 2005 (decision 2005/41). For the sake of freedom of expression, the Board has given to Mr. Spahiu several opportunities to bring the coverage of his station in conformity with his license. Mr. Spahiu has agreed to a fact found by experts to clarify whether this was technically feasible. Experts have confirmed that indeed this is possible. Finally, in the Decision 2006/07 he was given the last possibility with the determined deadline until 1 May 2007, during which time its license will automatically be revoked if he would not act in compliance with his obligations. The Panel took this decision because all legal and technical issues had been decided upon.

As unfortunately Mr. Spahiu did not come into compliance IMC had to draw the necessary consequences and take action, if not the whole legal procedure of the three members of the Media Appeals Board acting within the framework of relevant laws would be in vein.



The underlying issue is that the rule of law has to prevail even if there are understandable political considerations. Therefore, the only acceptable solution of this case can be based on the respect of the rule of law.

#### Complaints submitted for the review on MAB

In the end of 2007, at the Media Appeals Board are submitted two complaints with numbers 2007/07 and 2007/15, which are left to be processed in 2008.

### **OFFICE OF THE CHIEF EXECUTIVE**

The Office of the Chief Executive has to implement all aspects of the broadcasting policy; to prepare proposal on the budget and gives recommendations to the Council on the issues related to the budget and administration.

During 2007, the Office of the Executive Chief had in total 21 employees, civil servants, out of 24 that in total it should have. The IMC faced with budgetary problems which impacted in non realization of the planned number of employees.

In the organizational structure, the Office of the Executive Chief has two departments and five divisions: Department of Broadcast Regulation, which consists of Legal, Licensing, Frequency Management, and Monitoring and Compliance divisions, and Department of Administration.

### **DEPARTMENT OF BROADCAST REGULATION**

The Broadcast Regulation Department supervises the overall IMC regulatory activities by coordinating the work of the Legal, Licensing, Monitoring/Compliance, and Frequency Management divisions. It provides support and advice to the Chief Executive on all matters related to licensing, enforcement and regulatory policy development of the IMC. It oversees development of broadcast regulatory and policies and procedures and coordinates professional staff development within the Regulatory Department.

### **LEGAL DIVISION**

Legal Division advises the IMC on all legal matters related to licensing, complaints from the public, and the preparation of new rules and guidelines for broadcasters. The Legal Division prepares sanctions cases and advises the IMC in all legal proceedings. The Legal Division also serves as general council to the IMC, advising on administrative as well as regulatory matters. During 2007, this Division has processed 35 cases.

#### Cases of failure to provide the archives

Complaint No. 2007/18 – the IMC has issued a Notice of Violation of the Article 11.1 of the Code of Conduct for the Broadcast Media, for failure to provide the requested archives. The case is being processed by the IMC.

#### Cases of interferences

Legal Division has processed the Complaint No. 2007/05, when a broadcaster interfered with another broadcaster, and after the IMC sent an Order that direction of the antennas, mapped license area as well as transmitting power to be brought back in compliance with the Part II of the License, this media broadcaster is in compliance with the Part II of the License. Case is closed.

#### Cases of interruption of the broadcasting

Legal Division has processed only one case, Complaint No. 2007/04 for not broadcasting for more than 90 days as it is foreseen in the license to restart broadcasting. The IMC Council issued a decision by which it ordered the media broadcaster to restart broadcasting activity as obliged by the License. Due to financial difficulties, this has voluntarily given up the IMC license.

Submitted cases by the parties regarding RTK news

Two cases were processed by the Legal Division, Complaint No 2007/08 regarding the news edition of RTK. Executive Chief of the Independent Media Commission, in accordance with the authorizations given by the Council, has rejected the complaint as ungrounded.

Complaint No. 2007/29 – regarding the RTK program “Mostovi”, for insult and assumption of insult. The case is being processed.

Complaint No. 2007/30 – regarding news edition of RTK for tendentious reporting and misinformation. The case is being processed.

Submitted cases by the parties regarding TV 21 news

Complaint No. 2007/32 – regarding the news edition of TV 21. The case is being processed.

Cases of the broadcasting from unlicensed location

Complaint No. 2007/13 – broadcaster has changed broadcasting channel without written approval of the IMC. By this action it violated the Part II of the License. The IMC sent the Notice of Violation for the committed violation reminding to this broadcaster that according to the license it can not change the location of the transmitter without prior written approval of the IMC. The IMC issued an order to this broadcaster in order to return its broadcasting system in accordance with the terms determined by the license. The case is being processed by the Legal Division.

Cases of broadcasting without copyright

Complaint No. 2007/02 – against a broadcaster who broadcasted the program of another broadcaster without copyright. The IMC Council took the decision to deny the complaint as ungrounded. Case is closed.

Cases of coverage of the electoral campaign

Regarding non coverage of the electoral campaign or misinformation during this period, following complaints have been received 2007/16, 2007/17, 2007/19, 2007/20, 2007/21, 2007/22, 2007/23, 2007/24, 2007/26, 2007/27, 2007/28, 2007/31, 2007/33, 2007/34, 2007/35; they are being processed by the Legal Division of the IMC.

## **LICENSING DIVISION**

The Licensing Division is responsible to conduct competitions for the new broadcast licenses for the territory of Kosova. The Licensing Division also cooperates closely with all media broadcasters in the issues dealing with their compliance with the general terms and conditions of their licenses. In cooperation with other divisions of the IMC, the Licensing Division guides all media broadcasters to resolve problems of interference among broadcasters and to review requests from broadcasters to amend their licenses.

Activities in the Licensing Division

During 2007, the Licensing Division has received numerous requests and complaints from the licensees. Also some *ex-officio* cases were initiated when it was noticed that license terms and conditions have been violated by the broadcasters. During 2007, in the Licensing Division have been

filed in total 34 cases of different nature that had to do with the violations of general terms and conditions of the IMC license.

From the 2006, in the Licensing Division have been transferred nine cases. Out of them, five are regarding non compliance with the general terms and conditions of the IMC license by the broadcasters; they have been transferred to the Legal Division and are being processes. Four of them are considered completed and closed by the Licensing Division.

License Terms and Conditions are set to ensure that every broadcaster serves a broad public interest, observes certain requirements of professionalism and impartiality. In cooperation with Monitoring, Legal and Frequency Management Divisions, the Licensing Division offered guidelines and suggestions to the broadcasters as needed by resolving their problems and requests presented to the IMC, respectively to the Licensing Division.

## **MEDIA MONITORING AND COMPLIANCE DIVISION**

The Monitoring and Compliance Division monitors broadcast media and periodically conducts site visits, both to ensure compliance with IMC regulations and to help the IMC better understand broadcasters' needs and concerns. IMC Monitors receive complaints from the public and review them in consultation with the Legal, Technical and Licensing Divisions so as to advise the Chief Executive on any regulatory action that may be required and also may initiate its own ex-officio complaints.

The year 2007 was a successful year for the Monitoring and Compliance Division in terms of implementing the monitoring projects. Evaluation of the media broadcasters regarding their compliance with Licensing Terms and Conditions, Broadcast Code on Conduct and Regulations of the Independent Media Commission, were the focus of the implemented projects of this division.

With aim to inspect and verify the compliance of Media Broadcasters with Licensing Terms and Conditions, during the summer, the monitoring staff has visited all broadcasting media in all five administrative regions. Through these visits and contacts with the representatives of the radio and TV stations, the monitoring staff was closely informed with the concerns, problems and achievements of the broadcasters.

The Period during November 2007 Elections, was an additional mobilizing period for all monitoring staff of the Office of the IMC in order to do the evaluation regarding the fair and impartial reporting of broadcasters during the election campaign, compliance with the Regulation on Elections 11/2007 of IMC, and Guidelines on Implementing the Electoral Silence Period.

The archives of broadcasted programs for all radios and televisions during 16 and 17 November, were requested and later on were monitored and analyzed regarding their compliance with the Guidelines on Electoral Silence Period.

The monitoring officers are the first contact for submitted complaints by the citizens as well as with ex officio cases, initiated by the Office of the IMC itself. Regarding these complaints, the Monitoring Division conducted many monitoring reports and analyses. Monitoring findings regarding the programs on which were filed complaints were basis on which the Legal Division upheld many undertaken legal decision. The lack of technical capacities that would enable the Monitoring Division to conduct monitoring and analyzing of broadcasters' program content in five administrative regions, especially in the cases of complaints, presents difficulties to proceed submitted complaints from the public as well as to produce its reports on different program categories.

Ensuring of an advance monitoring system is a crucial need. The IMC presented at the Government of Kosova, with budget presentation, **Project for monitoring the programs of radio-diffusive terrestrial operators in Kosova**. In this project are presented technical and organization details on realization of this project. The project has to do with the creation of monitoring system of FM and TV broadcasters from our seven centers of Kosova (Prizren, Peja, Gjakova, Gjilan, Mitrovica, Ferizaj and the center in Prishtina) in order that from monitoring center in Prishtina can be: monitored, recorded and kept the radio and TV signals from the above-mentioned centers and that 2 TVs and 1 radio station from each above-mentioned centers.

## **FREQUENCY MANAGEMENT DIVISION**

The Frequency Management Division (FMD) sets the transmission parameters for each broadcaster, including frequency, signal strength and location of antenna. Using specialized frequency planning software, the Frequency Management Division plots the coverage area of each broadcaster on a precise topographic map of Kosova to ensure that each radio or television station can cover its licensed area without interfering with other broadcasters. The FMD also conducts field monitoring operations to verify broadcasters' compliance with the technical terms of their licenses; monitors the solving of the issues related to the broadcasting interferences between media broadcasters.

In continuance, the FMD conducted technical monitoring throughout the territory of Kosova in order to evaluate the situation in cases when were submitted requests from broadcasters for IMC technical assistance. Based on the analysis of the gathered data during technical evaluation of the cases, mostly were noticed problems of interference of stations to each other as a result of the low quality of the broadcasting equipment.

FMD preceded a considerable number of cases on interferences that were initiated from the complaints of broadcasters, as well as it evaluated and made recommendations regarding requests for changing the system of broadcasting location. DMF achieved to identify causes of technical problems that were shown at broadcasters and according to the recommendations of this division, the IMC issued decisions for solving those problems.

## **DEPARTMENT OF ADMINISTRATION**

The Administration Department is responsible for all financial, personnel, logistic and procurement matters at the IMC, including management of its budget (derived from the Kosova Consolidated Budget).

## IMC BUDGET FOR YEAR 2007

Planning of the 2007 budget started with the approved budget in total amount of 358,478.00 Euro. At the mid-year review according to the Administrative Instruction 2007/10 there was a change in budget line in the category of Salaries and Wages. The amount of 6,884.00 Euro was decreased since this amount was not spent during the half year due to the lack of the number of staff.

The unspent amount from all budget lines is a surplus of 21,887.00 Euro; this means that IMC has realized budget plan for about 94% of the budget usage.

Out of the 2006 donor funds, which in total reached the amount of 20,000 Euros (donation by the OSCE for implementation of the Public Awareness Campaign on the IMC), the Independent Media Commission spent 17,874.12 Euro, while during 2007 spent 400.00 Euro. Unspent amount of 1,725.88 Euro of this donation was returned to the donor in accordance with the previous agreement for usage of these funds.

	<b>Approved Budget</b>	<b>Budget Allocations</b>	<b>Expenditures</b>	<b>Unspent Budget</b>	<b>Unspent Allocations</b>
Salaries and Wages	79,269.00	72,385.00	68,765.00	3,620.00	3,620.00
Goods and Services	259,209.00	259,209.00	247,027.00	12,182.00	12,182.00
Public Utilities	20,000.00	20,000.00	13,914.00	6,085.00	6,085.00
<b>Total</b>	<b>358,478.00</b>	<b>351,594.00</b>	<b>329,707.00</b>	<b>21,887.00</b>	<b>21,887.00</b>
Donor Fund		400.00	400.00		
<b>Total</b>		<b>400.00</b>	<b>400.00</b>		

No.	Description	Allocations from the General Fund		Donor Fund	Total (3+4+5)
		Own Source Revenues	Treasury Account – Government Grant		
	2	3	4	5	6
1.	Income (1a to 1c)				351,994.00
a	Government Grant		351,594.00		351,594.00
b	Own Source Revenue				
c	Determined Grants			400.00	400.00
2.	Expenditure (a to c)		329,707.00	400.00	330,107.00
a	Salaries and Wages		68,765.00		68,765.00
b	Goods and Services		247,027.00	400.00	247,427.00
c	Public Utilities		13,914.00		13,914.00

3.	Balance of Unspent Income (No.1 - No.2)		-21,887.00		-21,887.00
4.	Unspent Government Grant (No.3 Col.4)		21,887.00		21,887.00
<b>5.</b>	<b>Total (No.3+-4)</b>		<b>0</b>	<b>0</b>	<b>0</b>

## **IMC PRESENTATION IN THE PROGRESS REPORT OF THE EUROPEAN COMMISSION**

On 6 November 2007 was published the document “Progress Report 2008 for KOSOVA under SCRUN 1244’ on which at the point 4.3.6 “Informative society and media”. In this report is mentioned that “with regard to audiovisual policies, regulative framework has improved fundamentally [...] However, one and a half years after the approval of the relevant legislation, the board to the public broadcaster (RTK) has not been appointed yet. From 1 February 2008, KEK, the energetic company will finish the collection of the payment for RTK through KEK’s bills. Stable and sustainable financing for RTK and for Minority Media Fund, it is crucial for achieving the objectives of the public broadcasting service and for the access of all communities to information. [...] The Chief Executive Officer of the Independent Media Commissioner (IMC) has been appointed. Serb minority is represented at the IMC. IMC is responsible managing, regulating and conduct of resources of the specter of the broadcasting frequencies, for compiling the secondary legislation, licenses and for collecting the obligations for the use of frequencies in Kosova. So far, the IMC has licensed 117 broadcasters in Kosova. IMC assisted the Government in drafting the policy for minority and multi-ethnic media and to create a fund for supporting the minority and multi-ethnic media. IMC still should address important issues like concentration of the media and regulation of the lowest advertisement threshold.”

For the first time the Independent Media Commission, during the reporting period, started to participate at the working group meetings of Acquis on Transport, Informative Society and Media. This is realized through Agency for European Integrations that operates within the Prime Minister’s Office. On the Action Plan for European Partnership, within the priorities of the Kosova institutions were determined two priorities for whom the Independent Media Commission was responsible; priority 33 and 91. IMC have reported continuously for progress achievements in relation with those priorities, and on the meeting of Acquis Group dated 3 May 2007 have presented in front of representatives of the local and international institutions and the representatives of the European Commission the work of IMC and action plans for fulfilling its obligations in this direction.

On 7 November, after publishing the progress report, upon the invitation of the PMO, the IMC participated at the thirteen’s meeting of the Following Mechanism for the Stabilization and Association Process (FMSA). Here was discussed for each field covered on the progress report of EU and to the every institution was given the opportunity for explanations. The IMC as well had the opportunity to explain the details for each raised issue in the report.

## **IMC REPRESENTATION IN THE LOCAL, REGIONAL AND EUROPEAN MEETINGS AND CONFERENCES**

### **Meetings of the Centre for the International Integrations RAE**

Representatives of the IMC participated at four meetings of Roma, Ashkali and Egyptian (RAE) communities, in order to offer contribution in realization of the project titled “Government

*Strategy for Integration of RAE communities*". Representatives of IMC – gave particular contribution in this project on the part of discussing the needs and opportunities of the development of the information of the RAE community in their language. These meetings were usually supported by Kosova Foundation for Open Society – SOROS

#### **Conference “Media and rule of law in Kosova”**

On 11 June 2006 was organized the conference Media and rule of law in Kosova by Deutsche Welle and Fridrich Ebert Stiftung, in which the representative of IMC was invited to discuss on the subject: The role of the regulator on creation and implementation of the legal framework for electronic media.”

#### **Regular annual meetings within EPRA**

The representatives of the Chief Executive Officer Office of IMC have participated in two conferences organized by the European Platform of the Regulatory Agencies (EPRA), member of which is also IMC since 2003.

#### **25<sup>th</sup> meeting of EPRA in Prague – Czech Republic**

According to the official invitation by the Council for Radio Television Broadcasting of Czech, representatives from the office of the Chief Executive Officer of IMC participated at the 25<sup>th</sup> meeting of the EPRA from 16 to 18 May 2007. The main topic of the discussion was the independence of the regulatory agencies. Part of the conference was also the meeting of the three working groups related to Blurring Boundaries, New Issues related to Advertisement and Editorial Separation, Media Concentration and Pluralism, Actual Issues of Concern and the Performance of the Public Broadcaster, Public Values and Tests on the Market Impact.

From the meeting of the first group it was understood that types of programs like quiz or programs that offer direct discussions might be considered by some countries as another way of advertisement. Therefore, in those countries is being worked in relation with defining these types of programs and the way of their regulation.

Plenary session continued with topic of discussion related to licensing the new substantial applicants of IPTV media. The participants discussed in particular in regard with the way and licensing standards as well as protection of the consumer.

In this conference, the representatives of IMC met with representatives of the Council of Europe and the representatives of the regional regulators and discussed with them regarding the issues of digitalization, compiling of the secondary legislation, the independence of the regulator, solving of the problems of interference that comes from outside of territory and merging of the regulators.

The aim of this meeting was to discuss the above mentioned issues that are concern of IMC and to find the best possible way to solve them.

#### **26<sup>th</sup> meeting of EPRA in Sofia - Bulgaria**

The 26<sup>th</sup> meeting of EPRA was held in Sofia – Bulgaria from 3 to 6 October 2007. In the centre of discussion was the issue related with the future regulatory challenges from dependence of fundamental reforms of the regulation framework of EU for broadcasting and telecommunication. Among the subjects that were discussed at this conference was the approval as soon as possible of the Directive for Audiovisual Media. Other subject was the analysis of the potential impact of the review of the regulatory package of the telecom on the broadcast and explore of the trading and digital dividend (TDD).

The above mentioned challenges are illustrated through three working groups. The first group reviewed the new European provisions related to the issue of the establishment of the products and which is the way that state members plan to transform that in the national level, the second group discussed related to the actual problems of the digital broadcast, in particular with regard to the process of transfer of the broadcast into digital platform, as well as the development of different forms of digital broadcast through digital platforms. The third group examined how new technology development is allowing more effective monitoring and less engagement in the context of proliferation of channels.

### **The Conference: “Media Converge – Converged Regulatory?” Skopje, October**

On 1 and 2 October 2007, representatives of the Chief Executive Officer office of IMC participated at the conference organized by OSCE – Mission in Macedonia and Council of Europe with a subject “*Media Converge – Converged Regulatory*”. In this conference it was discussed with regard to merge of regulators of the telecommunication and broadcast (media) by considering this as an opportunity for guaranteeing of the financial independence and political influence. At this conference representatives of OSCE in Macedonia, Association of the Commercial Televisions in Europe (ACTE), Council of Europe, European Union, APEK Slovenia, OFCOM Great Britain, and Regulatory Authority of Bosnia and Herzegovina etc have participated. All the participants that debated on this subject emphasized that by converging of media’s it comes also the need of converging the regulatory. However, this should happen only when this need is unavoidable of information industry. Panellists of the converged agencies and to those who act separately emphasized the need to save the independence of the regulatory and broadcasting. It was concluded that no matter if there is or there is not convergence, a special importance should be given to the content of the information and communication production that is offered to the consumer.

### **Workshop EPRA – ERG, Capri, October 07**

The IMC was represented also at the joint workshop among European Platform of the Regulatory Agencies (EPRA) and European Network of Regulators of Telecom (ERG). This was the first joint meeting of the broadcasting and telecommunication regulators in which for two days it was discussed the converging of the media sector and telecommunication as a new paradigm for the communication industry, implications for regulation and challenges for the two groups of regulators in the new scenario of convergence.

In all main sessions organized through 9 panels it was emphasized this special attention saving of the program content and the independence of the regulators, determination of priorities without interfering into each other competencies in the cases of the converged agencies. As part of the world that is moving forward in big steps towards globalization, Europe (member states) has managed to advance substantially in developing the communication industry by presenting to consumers converged media, terrestrial and digital and lately also Mobile Televisions, as a trend that needs to be supported and developed. By the European Commission it was said that it is time to act, to ensure legal credibility and to distribute frequencies in order to allow converged services to start their work and to become economically sustainable. The Commission wants that Europe achieves historical opportunity of digitalization, and gives a push to the broadcasting sector and to telecom in a situation that brings victory for both parties. In order to achieve this it should be balanced the economical importance with those cultural and social.

Kosova as non-member state of the European Union (EU) is substantially behind other countries in developing the audiovisual sector. While 19 member states are in a proper way for offering Digital Televisions in terrestrial network and in that High Definition and also in Mobile TV to their consumers, in Kosova we have terrestrial broadcasting, that already for some has become a



classical way of broadcasting, and cable broadcasting as new platform, which IMC definitely is going to license in the first and second quarter of the 2008. During this time it is foreseen to come up in the scene also the offers of the program services that are going to enrich television sector. It is legal obligation of IMC that during this time to decide also for the main actors that will remain in the scene, that means, it will be decided that only legal cable operators that will act in harmony with Regulation and Law of IMC will be allowed to operate. Illegal activity of others will be interrupted. For this, the IMC need to have support from respective authorities to use the appropriate mechanisms to fulfill its obligation that in the market to allow access only to licensed operators.

## **CO-OPERATION WITH OTHER ORGANIZATIONS**

### **IREX**

The Independent Media Commissioner has close cooperation with IREX, an international non-profitable organization that operates in Kosova, which, among others offers professional support in strengthening independent media. During 2007, IMC has established working group with regard to compiling the regulation for regulating cable operators. IREX has engaged international experts in order to support professionally the working group of IMC. On 6 July 2007, Council of IMC has adopted the Regulation for Cable Distribution of Radio Television Programs in Kosova.

### **OSCE**

In its activities, IMC had in continuity close cooperation with the OSCE Mission in Kosova. Within this cooperation, in particular can be mentioned the Project "Support to IMC". In focus of this project was preparing the process for re-licensing of broadcasting subjects in Kosova. During the implementation of the project, trainings and monitoring analysis were held and needed pre-preparations were done in order to face with all challenges that can come up during the phase of re-licensing of all broadcasting subjects in Kosova.

This priority project for IMC is in continuity. Targeted objectives to be achieved through this project, through this phase of re-licensing, is to use main political instruments in order to guarantee diversity and pluralism to media market in Kosova.

Since it is happening for the first time to be done the planning by a regulator that is responsible for managing frequencies, was done a good strategy. That is based on the best European practices, which enables avoiding of the difficulties that may come up during the implementation of this plan. Within the IMC project of the preparations for re-licensing process, that was financed by the OSCE, from 7 activities that were planned are realized only three of them:

- training of the staff of the Division of Monitoring by the instructors from Kosova Institution for Journalism and Communication KIJAC on monitoring and analyses according to the qualitative, quantitative and comparative methods;
- analyses of the frequency spectrum with engagement of an international expert, to evaluate compliance of the analogue frequency band of Kosova with the international conventions determined by the ITU and to determine a start toward digitalization plan; and
- study visit of the representatives of four divisions in Bosnia and Herzegovina, to the Telecommunication Regulatory Agency.

## **IMC PROJECT SUPPORTED BY THE OSCE**

*Activity 1 – Kosova Institution for Journalism and Communication Training*

In frame of this project that was financed by the OSCE was realized one-week training of monitoring staff that was headed by a local expert from Kosova Institution for Journalism and Communication KIJAC

One week intensive training aimed advancing the knowledge's of the monitoring staff with regard to monitoring methodology and detailed explanation of the complicated monitoring segments of electronic media's, substantial and linguistic analysis as well as editorial policies.

#### Activity 2 - Analysis of the analogue frequency spectrum of radio and TV

All frequencies given by the legal forerunner of IMC, the Temporary Media Commissioner, have been issued on temporary basis, pending the establishment of IMC. Now, IMC is obliged to issue long term licenses for radio and televisions. In order that the whole process of issuing new, long term, licenses is in compliance with the ITU standards and best European practices the IMC needs to have an update on the present situation of the analogue frequency plan, an analysis that will serve as a starting point for the re-licensing process. A frequency management expert has been engaged to conduct an assessment of Kosova's broadcast frequency spectrum to set out the parameters for the re-licensing.

#### Activity 3 - Study visit in Sarajevo

The Independent Media Commission is in the preparation stage on the process of re-licensing of the broadcasting subjects in Kosova. Part of the project of the preparation phase of the process of re-licensing is also the study visit of the IMC staff to the Communication Regulatory Authority ("CRA") in BH. The IMC has good legal basis to start the process of re-licensing, however one of the main goals of the study visit to CRA was also gaining the experience during the implementation of the process of re-licensing of the broadcasting subjects in BH as well as getting to know closely difficulties and possible mistakes that occurred to them during this process.

The reason of the determination that study visit to be done in BH stands in the fact that legal basis of the CRA and the one of IMC in many aspects are similar. Therefore during the exchange of experience between the staff of IMC and CRA with regard to realization of the process of re-licensing would be created the possibility for IMC to review sub-legal acts aiming to prevent and avoid problems and obstacles that may occur during the process of re-licensing, in the same way that occurred to CRA, in the way that not to be repeated the same during the process of re-licensing in Kosova.

## **Appendixes**

### **Appendix I**

Table of legal cases of complaints and sanctions

### **Appendix II**

Sub-legal acts approved by the IMC Council

### **Appendix III**

## Rules of Procedures of MAB