

<b>OSI information on broadcast media for the 2008 Montenegro Report</b>
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## **Introduction**

Democratic media reform in Montenegro – Europe’s newest sovereign state – started very late. The legal basis for such reform was laid as recently as 2002, with the adoption of the Law on Media, the Law on Broadcasting, and the Law on Public Broadcasting Services–Radio and Television of Montenegro. Drafted with the help of international experts, these laws were in line with European standards. The implementation of these laws has exposed problems which should be addressed by legal amendments (see recommendation 3, below). Other problems in the audiovisual sector, such as the unsustainable number of commercial broadcasters, still need to be addressed. The most urgent threat to Montenegro’s media reforms, however, is a draft law on electronic communications – presented to Parliament in June 2008 – which presents a grave threat to the independence of the broadcast regulator (see below).

## **Laws and regulations**

The Broadcasting Law (2002) established an independent regulatory body, the Broadcasting Agency, which issues broadcasting licences under a greatly simplified procedure, in open tenders. It also sets quotas for independent production and advertising limits, and cooperates with the telecoms regulator in order to provide rational and efficient use of the spectrum. Parliament ratifies the appointments to the Agency’s governing body, without authority to reject them.

The Agency has so far discharged its licensing duties competently, though arguably its initial approach was too liberal (see below). Its performance in monitoring content needs further development and strengthening, which should be feasible with additional resources.

The Agency’s independence is now under direct threat from a draft Law on Electronic Communications which proposes to transfer key rights, duties and responsibilities of the Broadcast Agency to the telecoms regulator, under the direct authority of the Ministry of Transport, Maritime Affairs and Telecommunications.<sup>1</sup>

## **Commercial broadcasting**

As in other transition countries (including Bosnia & Herzegovina), the first open tender led to the licensing of unsustainable numbers of private broadcasters. Of 62 applicants, 59 gained licences for commercial radio or television. This is a huge number for such a small and poor country. The great majority of the licensed stations produce no original programming.

The Broadcasting Agency has accelerated the necessary process of consolidation by requiring these broadcasters to comply fully with the specified technical standards for broadcasting.

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<sup>1</sup> See the press release by Article 19, “Montenegro: New Telecommunications Regulator Lacks Independence”, 26 June 2008. (Available at <http://www.article19.org/pdfs/press/montenegro-regulator-lacks-independence.pdf>)

## Public service broadcasting (PSB)

The reform of Radio and Television of Montenegro (RTCG, *Radio Televizija Crne Gore*) from a state to a public service broadcaster has begun. Some impressive steps have been taken, including the reduction of its staff from 1,200 to under 800.

In management terms, there are problems with political influence over senior appointments. Such influence continues to be felt in editorial terms – though to a very much lesser extent than several years ago.

Stable and sufficient funding is an acute problem. Shortage of funds has made it impossible to lift the low professional and technical standards which had led to poor morale within RTCG the station, and had encouraged low public expectations. (The current dispute over parliamentary coverage is at root a matter of money, not politics: RTCG is desperately underfunded and grasping for a way to focus parliament's attention on its plight.).

The broadcasting fee accounted for two third of the RTCG income in 2006. Since September 2007, this fee has not been collected due to the cancellation of the agreement between the Agency and "Crngoroski Telekom". The renewal of this process has started this month and it relies on the "Electric Company of Montenegro". While the first results of the new model might be expected in the next quarter, the sustainability and every-day operation of RTCG are at grave risk.

At the local level, there are 15 broadcasters which are now in the midst of a non-transparent conversion into public service broadcasters. These stations, many of them moribund as media, provide a secure income for several hundred people – no small consideration in a country of Montenegro's size. A solution may lie in channelling available funds to a small number of these broadcasters, around the country, and privatising the remainder.

## Recommendations

In order to capitalise on the impressive media reforms that were undertaken in recent years, Montenegro needs to take several feasible steps. The European Commission should require the Government to:

1. ensure immediate and stable funding for RTCG to complete its reform as a public service broadcaster, and to operate as such;
2. abandon its intention to bring the planning, management and allocation of broadcasting frequencies under ministerial control;

In addition, the Commission should urge the Government to:

3. amend the Law on PSB in order to clarify the roles of Parliament and civil society in the governance of RTCG, with the overriding aim of ensuring its independence;
4. protect the independence of the public service broadcaster rejecting the recent proposal put forward by the Ministry for culture and media that membership in Council of RTCG should be decided by simple parliament majority.
5. endorse the Switch Over Strategy adopted by the Broadcasting Agency in April 2008
6. adopt the Law on Digitalisation (Analogue Switch Off) as soon as possible and pass it to the Parliament for further adoption ;

In addition, the Commission should provide financial support for:

7. regular surveys of audience preferences, at both national and local levels;
8. monitoring of minority-language broadcasting.

## **Annex: About OSI**

### **Open Society Institute ([www.soros.org](http://www.soros.org))**

The Open Society Institute (OSI) is a private operating and grant-making foundation based in New York and Budapest that serves as the hub of the Soros foundations network, a group of autonomous foundations and organisations in more than 60 countries. OSI and the network implement a range of initiatives that aim to promote open societies by shaping government policy and supporting education, media, public health, and human and women's rights, as well as social, legal, and economic reform.

OSI contributors to this document:

### **EUMAP, the EU Monitoring and Advocacy Program ([www.eumap.org](http://www.eumap.org))**

EUMAP, formerly the EU Accession Monitoring Program, monitors the development of selected human rights and rule of law issues in both the European Union and in its candidate and potential candidate countries. The Program works with national experts and NGOs to compile reports which are distributed widely throughout Europe and internationally. The reports are designed to encourage broader participation in the process of articulating the EU's common democratic values as well as in ongoing monitoring of compliance with human rights standards throughout the union.

### **Media Program ([www.mediapolicy.org](http://www.mediapolicy.org))**

The Media Program seeks to promote independent, professional, and viable media and quality journalism, primarily in countries undergoing a process of democratization and building functioning media markets. The program supports initiatives aimed at helping media-related legislation conform to internationally democratic standards, increasing professionalism of journalists and media managers, strengthening associations of media professionals, and establishing mechanisms of media self-regulation. The Media Program also supports media outlets that stand for the values of open society, as well as efforts aimed at monitoring and countering infringements on press freedom, and promoting changes in media policy that ensure pluralism in media ownership and diversity of opinion in media.

