

TRANSPARENT AND LEGITIMATE MEDIA
FINANCING FROM PUBLIC BUDGETS:
GUIDELINES FOR PUBLIC BODIES IN BIH

POLICY REPORT

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TRANSPARENT AND LEGITIMATE MEDIA FINANCING FROM PUBLIC BUDGETS: GUIDELINES FOR PUBLIC BODIES IN BIH

SUMMARY

On an annual basis, the public sector allocates tens of million KM to the media and for media contents, without allowing the public to have adequate insight into allocated amounts and allocation procedures. The criteria for allocation of public funds are poorly defined, or have not been set at all, which enables arbitrary decisions and corrupt activity patterns. The effects of the allocations on the quality of journalism and communication needs of the citizens remain questionable. The need to enhance the transparency and legitimacy of media financing from the public sector was recognised with the adoption of the Anti-Corruption Strategy and Action Plan for Implementation of the Anti-Corruption Strategy 2015 – 2019. However, concrete steps towards enhancing financing patterns are yet to be made, considering the fact that the method to achieve this is not precisely defined, while institutions and organisations that have been identified as the carriers of these activities lack the capacities and authorities to actually carry them out.

With this report, Mediacentar Sarajevo is attempting to contribute to the adoption of more precise rules, which will enhance the transparency and legitimacy of media funding, as well as to encourage active involvement of all public bodies in their application. Firstly, the report provides an overview of policies and practices in terms of media funding from the public sector in BiH (including regular funding of the public media and individual allocations for public and private media), followed by an overview of corresponding policies and practices in developed democracies. Finally, it lays out the conclusions and recommendations for the development of transparency rules and defining criteria in patterns of public media funding in BiH. Hopefully, the report will encourage the adoption of guidelines and/or rulebooks which will increase the legitimacy of public funding allocations to the media, and which will place media funding in the function of public interest.



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INTRODUCTION: SIGNIFICANT AMOUNTS, MINIMAL REGULATIONS

Information on the amounts allocated to the media in BiH from public budgets in various ways is partial and mostly provided by the civil sector.¹Data of the Centre for Media Development and Analyses (Centar za razvoj medija i analize – CRMA) for 2013 and 2014 suggest that media funding from the public sector, including regular funding of public media, individual allocations to public and private media, and funding of different types of promotions and advertising, amounts to around 30 million BAM annually.² CRMA’s unpublished research for 2015 and 2016, which additionally includes funds allocated to the media by public companies, suggests that the amount is significantly higher. CRMA estimates that the largest share of the allocations, i.e. two thirds, is allocated to public media including two entity news agencies Fena and Srna, three broadcasters comprising the public broadcasting system (BHRT, RTVFBiH and RTRS), and 81 cantonal, city and municipal public broadcasters.³

The money is allocated from all administration levels in BiH, through different procedures and for different purposes, including regular co-funding of public media, short-term allocations of funds for specific media contents and coverage of specific subjects, and various other types of individual financial assistance, such as allocations of surplus revenues of public institutions and companies to the media (see more in Table 1).

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- 1 See: Database of the Centre for Public Interest Advocacy (Centar za zastupanje građanskih interesa – CPI), available at: <http://javnefinansije.cpi.ba/budzetski-korisnici/>. The database enables functional search of public finance for 2014 and 2015 across all levels of government, including expenditures for broadcasting and publishing services. However, the database is incomplete, the authorities present allocations to the media as part of other budget items, while for some budget items, such as “funds for informing” or “participation in public media financing”, it is impossible to identify the end user. Data for specific media can be found in CRMA reports, or Mediacentar Sarajevo’s online articles and reports. For more information, see the project’s series at: <http://www.media.ba/bs/serijal/transparentnost-finansiranje-medija>.
 - 2 See more in text available at MC Online (2016a).
 - 3 12 TV stations and 62 radio stations using terrestrial broadcasting, plus seven public broadcasters in other communication networks. List of private and public broadcasters available on the Communications Regulatory Agency – RAK’s website: <http://rak.ba/bos/index.php?uid=1273787112>.

TABLE 1: MEDIA FINANCING MODELS IN BIH

MODEL	TERMS USED IN BUDGETS OF GOVERNMENT BODIES	DEFINITION	PURPOSE
Regular co-financing of public media, as stipulated by founding acts and/or public media legislation.	Subsidies, subsidies for public companies, transfers, grants.	Annual allocations to cantonal and local (mostly electronic) media and entity news agencies (Fena and Srna). The budget users are known beforehand.	(Co)financing of public media operations, (co) financing of salaries and contributions.
Individual allocations of funds to public and private media.	Subsidies, grants, transfers, donations, etc.	Funds which are, in principle, allocated based on public calls, with a clearly defined purpose, whose users are not known in advance.	(Co)financing of production of media contents that, for example, promote tourism, agriculture, or the work of government bodies.
Other types of short-term financial assistance to public and private media, based on individual requests or decisions.	Subsidies, budget donations, etc.	E.g. allocation of budget reserves, surplus revenues of institutions and public companies, etc.	Support to media or specific projects and media contents.

These allocations of funds are not explicitly focused on encouraging pluralism in media contents, supporting media innovations or non-profit media. There is no indirect support in the form of reduced tax rates or reduced production and distribution costs, nor does the state offer financial incentives to support the establishment of media for national minorities, which are some examples of media funding from public funds in other countries (see Chapter 5).

Information on the amounts, procedures, criteria and decision-makers of allocations of public funds to the media in BiH is not regularly or adequately published, the criteria for the allocations are mostly unprecise or non-existent, and it remains unclear what effects are aimed at or accomplished

with such financing.⁴ Public audit reports also suggest that there is non-transparency, inadequate distinction as well as inconsistency in the use of terminology in the process of allocating funds to different users, including the media,⁵ all of which makes monitoring more difficult. In the context of this report, we use generic terms for two categories: “regular allocations” (for public media) and “individual allocations” (for public and private media).

Among different procedures, allocations of funds based on public calls should, in principle, be more transparent and based on clearly defined criteria. However, this way of allocating funds to the media is not a broadly accepted practice among public bodies in BiH, with available information suggesting that the criteria, if defined at all, are not sufficiently precise or measurable. Individual and short-term allocations are often not transparent and are based on individual *ad hoc* decisions made without public calls. Such practices have, for example, been observed in allocations of budget reserve funds. Information on the amounts allocated to public media annually is partially available in budgets and financial reports of government bodies; however, the information is not regularly published, while decision-making procedures in terms of the amounts of the allocations are not precisely defined, allowing for arbitrary decisions. Supervision of different procedures of allocation and spending of funds is limited, and there is no comprehensive evaluation of the effect of these allocations on the quality of communications and public interest. Under the circumstances, it is not surprising that abuse of financial relations for achieving political goals and personal gain is considered the norm and the media in these relations are placed in a position of submission instead of the allocations ensuring the conditions for improved journalism.

4 See: Several earlier Mediacentar Sarajevo’s reports on media financing published from 2015 – 2017, available at: <http://media.ba/bs/o-mediacentru/publikacije>. The problem of the lack of rules, criteria and transparency in government financing of media is also recognised by the European Commission (Evropska komisija, 2015: 25).

5 Terminological differences are found in practice, where different models of media funding are interchangeably referred to as transfers, grants and subsidies, as well as in secondary sources where these terms are used for different types of allocations. For example, see definitions in Međedović (2010: 15), Audit Office of the Institutions of BiH (Ured za reviziju institucija BiH, 2016: 12).

This policy report is the result of an identified need to precisely define the rules for allocating public funds to the media, so that the funds will be targeted for the purpose of meeting the priority needs of the public, and possibilities for their misuse will be minimised. In addition to other possibilities, such rules can be defined through joint guidelines for all public bodies, the application of which would be promoted by anti-corruption bodies and institutions with jurisdiction over the media sector as part of their authorities.⁶

Therefore, the policy report is primarily intended for all public bodies that allocate funds to the media, as well as the Agency for the Prevention of Corruption and Coordination of the Fight Against Corruption (APIK), which can contribute to improving the media financing model as part of their activities in the context of the Anti-Corruption Strategy. Furthermore, the document is targeted at institutions with special authorities related to communications and media – such as ministries of transport and communications and the Communications Regulatory Agency of BiH – which could act in this direction in the future. Finally, the report is also meant for the media, journalistic community, non-governmental sector, and the broader public, all of whom should take part in developing the aforementioned practices and policies.

The report is based on a qualitative research, which included analysis of secondary sources on the financing of media from public funds in BiH, as well as in other countries, analysis of the legislative and regulatory frameworks in BiH (rules and codes of the Communications Regulatory Agency), interviews with 26 subjects in BiH (including journalists, editors, media directors, media experts, representatives of the governmental and non-governmental sectors), seven consultation meetings with government representatives, illustrative examples of allocation of funds to the media that were identified by reviewing the CPI database on public spending and analysing 15 documents (financial and programmatic statements of the media, audit reports, decisions published in official gazettes) and reviewing two public calls for media grants which were published on the websites

6 Other important measures and steps, such as the establishment of a joint system for collecting data on public allocations to the media, increased supervision of the procedures of allocating and spending the funds, evaluating the effect of the allocations on journalism and public interest, and adoption of relevant legislation, are not the focus of this policy report, although some of them shall be touched upon later on in the text.

of government bodies. Research results were partially presented in five research reports published in the period from April to October of 2017.⁷

The report does not include different types of commercial advertising contracts, promoting activities of government bodies, coverage of the activities of government bodies, publishing of tenders and felicitations, or subscriptions of public bodies to specific newspaper editions. These financing models, which are mostly subject to the rules of public procurement, will be at the focus of another Mediacentar policy report within the same project, which will also be published in 2018.

2. TRANSPARENCY: FULL INFORMATION NOT DISCLOSED BY GOVERNMENTS OR THE MEDIA

The open government concept in BiH is still in its early stages. There are significant objections to the transparency of public budgets, without any attempts to prepare an easily understandable, publicly accessible budget at all government levels, as is the practice of other European countries (Evropska komisija, 2016: 9). Neither the scope nor the quality standard of information that must be disclosed are clearly defined, while many institutions lack written internal procedures on publishing content on their websites (Ured za reviziju institucija BiH, 2015: 19).

Information on media funding from the public sector is still insufficiently available. The amount of allocations to the media is disclosed in individual budgets of government bodies, however, pro-active disclosure of budgets and budget spending reports is still not regularly practiced by all public bodies. Practices in record-keeping and use of terminology when it comes to these allocations are also uneven, which hinders any initiatives for collecting complete data.⁸For example, the terms *subsidies*, *grants* and

7 For all the interviews, consultation meetings and other primary and secondary sources see research reports (Sokol, 2017a-d) available at: <http://www.media.ba/bs/serijal/transparentnost-finansiranja-medija>.

8 For example, the Municipality of Živinice financed the work of the local radio and TV station RTV Živinice and listed it under the item “transfer to non-profit organisations,” based on the decision of the municipal mayor and without a public call for allocation of the transfer (Ured za reviziju institucija FBiH, 2016: 2).

transfers are used interchangeably in practice to refer to regular annual co-financing of public media companies. Media allocations are often listed under collective budget items, from which it is impossible to discern the exact amounts allocated to the media. For example, media allocations are listed under “other contracted services”, “current grants” and “capital equipment transfers”.

Apart from that, obtaining complete information is difficult considering the complicated administrative organisation of the country with 155 government levels, each with a number of public institutions and companies that may transfer part of their budget funds to the media. The Law on Freedom of Access to Information (LFAI) does not stipulate for public institutions or companies to proactively disclose information of public relevance (Rajko, 2014), while the response rate to requests for access to information is still unsatisfactory, amounting to just over 50% according to CRMA.⁹The accuracy of information that can be accessed is also questionable, with information varying depending on the source. For example, the General Secretariat of the Government of Republika Srpska stated that there were no budget allocations to RTRS in 2015 and 2016, whereas CRMA reported that the Government of RS allocated BAM 125,790 to RTRS in 2015. The RTRS report on activities and performance for 2015 shows that RTRS generated a revenue of BAM 487,766 from public budgets, without specifying from which sources.¹⁰

On the other hand, the media that receive public funding also do not disclose information on it. This is particularly problematic when it comes to the public media, which are obligated under entity-level laws on public companies to disclose and make accessible information on their organisational structure, financial performance and administrative operations, either “on the web site of the public company” or, as stipulated by the RS Law, “on the web site or in another adequate manner”.¹¹In practice, however, most media do not publish their plans, programmes,

9 See more: MC online, 2016b.

10 Source: Mirna Stanković Luković, journalist, CRMA, written correspondence, 30 March 2017.

11 Law on Public Companies in the Federation of BiH (Zakon o izmjenama i dopunama zakona o javnim preduzećima u Federaciji Bosne i Hercegovine Article 2, paragraph 3); Law on Public Companies of Republika Srpska (Zakon o javnim preduzećima RS, Article 2, paragraph 3). The laws, however, do not stipulate exactly which information is to be disclosed or in what form.

statutes, while some do not even publish fundamental information on the composition of their managerial bodies, editors, editorial staff members or contact information (Halilović 2016; Voloder 2016). The media also often fail to respond to inquiries on incomes from public budgets: in a recent research carried out by Mediacentar, only nine out of twenty media in total delivered their responses (Medić and Sokol, 2017).¹²

Disclosing information on procedures of allocating public funds to the media is also poorly regulated. Annual budget allocations for local public media are discussed in the process of budget adoption in sessions of local and cantonal councils or assemblies, but information on allocations and justification is not adequately presented to the public. Individual, short-term allocations to the media are sometimes executed without public calls,¹³ and even when a public call is published,¹⁴ it does not provide insight into the criteria, evaluation of individual applications or the composition of the decision-making bodies. This reduces public trust in the legitimacy of allocation procedures.

The system regulating state aid also failed to improve the availability of information and control of public funding allocations to the media. The entity governments, the Government of Brčko District and the Council of Ministers of BiH are obligated to collect information on allocated state aid from all administrative levels and deliver it to the State Aid Council of BiH, the body in charge of supervising the system and which prepares consolidated annual reports that are delivered to the European Commission. The annual reports published by the State Aid Council of BiH, however, provide only aggregated data on state aid, from which it is impossible to separate a consolidated amount of state aid to the media. At the same time, public bodies in charge of implementation – entity governments, the Government of Brčko District and Council of Ministers – are not required to disclose forms on reported state aid, containing information on the recipients, amounts and duration of funding, on their web-sites (Bulić

12 A number of public media operate within public culture and sports institutions, which makes it more difficult to identify their allocations from public budgets.

13 The Government of the Herzegovina-Neretva Canton allocates funds to private and public media annually, without public calls and without specified criteria. See: Jurić, 2017.

14 The City of Tuzla, for example, publishes public calls and selection results in terms of allocations of funding to the media on their website for the purpose of reporting on activities of the city authorities and public companies.

and Ćilimković, 2015: 34).¹⁵ The Council has the relevant authorities, but lacks the capacities to carry out inquiries and subsequent reviews of the legitimacy of state aid.

3. CRITERIA: NON-EXISTENT OR IMPRECISE, WITHOUT CLEARLY DEFINED PUBLIC INTEREST

Media funding from public budgets contributes to the sustainability of media in the small and sparse market of BiH, in circumstances where the majority of media do not have enough potential sources of revenues. However, what is lacking in different models of funding is clear definition of the goals and expected outcomes of these allocations, a clear method of determining the amount of total and individual allocations, as well as precisely defined criteria for selection of media to which funding will be allocated.

In the following sections of this chapter, we will focus on the criteria for: regular allocations to the public media (3.1.), individual allocations to the private and public media (3.2.), individual allocations to the three public broadcasting services (3.3.) and media funding through the state aid regulation system (3.4.).

3.1. REGULAR FUNDING OF THE PUBLIC MEDIA: ARBITRARY DECISIONS NOT PREVENTED

The majority of public funds from different government levels is allocated to two public news agencies,¹⁶ and to public cantonal, municipal or city radio and television stations. These broadcasters, 81 of them in total, have the status of public companies and are majority owned by municipal, city and

15 The form for reporting state aid is available, for example, on the website of the Ministry of Finance of FBiH. See also the Law on the State Aid System (Zakon o sistemu državne pomoći).

16 Entity governments annually allocate around BAM 1,700,000 to Srna and around BAM 2,600,000 to Fena (Hodžić, 2016b: 9-10).

cantonal governments.¹⁷ They are partially or fully funded from cantonal, municipal or city budgets, which is in most cases defined in their acts on establishment, statutes and/or special laws.¹⁸ For example, RTVTK receives more than sixty per cent of its total revenue (more than BAM 1.5 million) from the cantonal budget (*Službeni glasnik BiH*, 45/16: 19), while smaller stations, such as RTV Rudo, for instance, receive almost all their revenue from local governments.¹⁹ The amount allocated by local and cantonal governments is usually based either on a defined percentage of the medium's total revenues, or on the number of employees and expenditures for salaries and contributions. However, each local and cantonal administration can adopt special regulations and decisions in that respect.

These budget allocations are planned annually, based on media's requests in terms of proposed activities for the next budget period. After a public discussion, considering available options, and obtaining consent from the ministry of finance of the superior administration level (cantonal or entity-level), the draft budget is prepared which is then adopted by the cantonal or municipal assembly or city council. The amount of funds to be allocated to these public broadcasters is mostly based on identical or similar amounts from previous years. Current programmatic needs and potential possibilities for improving journalism are not taken into consideration.

Public broadcasters are warning that it is not possible for them to make long-term business, programmatic or development plans, without a set amount of revenues from the municipal/city/cantonal budget, and that there is an atmosphere of insecurity and too much dependence on current local and cantonal authorities.²⁰ Not only can budget cuts and identified other priorities affect the financing of public media, but there have also been cases

17 Cantonal and local governments are in most cases 100% owners, but in some media, the employees hold minority interests (e.g. RTV Zenica). There are also private media in which governments own majority ownership interest, as well as media established by several municipalities and cantons. For example, the Municipality of Kiseljak owns an ownership interest in RTV KISS of around 8%, while several BiH municipalities and the West Herzegovina Canton are the founders of RTV Herceg-Bosna (MC Online, 2016a).

18 The example of RTV Zenica is proof that this is not always the case. This RTV station did not have a legal agreement or co-financing contract with local authorities that would guarantee funding of its operations (Sokol, 2017e).

19 Out of the total revenues of RTV Rudo amounting to BAM 92,000, municipal budget funds amount to BAM 87,000. Source: Rato Rajak, Mayor of the Municipality of Rudo, written correspondence, 24 February 2017.

20 See: Sokol, 2017a.

of inexcusable conditioning of public media funding by particular interests of office holders.²¹ In general, it is believed that public media operate in the service of local and cantonal governments, rather than serving the public, with cases of financial pressures being seen as just extreme and most visible attempts to ensure political compliance.²² Under the condition of anonymity, some employees of public media speak of political dependence, one of them stating: “since this company is dependent on the cantonal budget, there is a sense that you must be submissive in some way”, while another employee states “I believe that other broadcasters are also under pressure, and most of them must comply to survive.”²³ What is certain is that, without defining long-term mandatory minimum funding and preventing arbitrary withholding of funds, it is impossible to rule out abuses.

Programme development of the media is all the while neglected. Detailed guidelines for public media instructing them how to act in the public interest are not defined, nor is there regular monitoring of their operations. Prescribed programmatic expectations from all public broadcasters refer to forty percent of their contents consisting of news and other information and education programmes, and ten percent of their weekly programmes dealing with national minorities.²⁴ In order to obtain and keep their broadcasting licence, public (as well as private) broadcasters must additionally meet RAK’s criteria in terms of programming, which are related to respecting the programme schedule, absence of hate speech,

21 The Mayor of Zenica, for example, withheld funding from RTV Zenica, conditioning them with the annulment of the Supervisory Board’s decision on the appointment of the director. Current city administration claims that the Supervisory Board appointed the director under the influence and in the interest of the SDA political party. Source: Armin Mujkić, Advisor to the Mayor of Zenica, interview, 13 March 2017. Controversial reductions of allocations to public media were, for example, noted in the Radio–Television of the Bosnia–Podrinje Canton and Radio–Television of the Una–Sana Canton (Hodžić, 2016:8; Gorinjac, 2014).

22 The editor-in-chief and members of the editorial board, as a rule, may not be elect public officials, while editors are not allowed to be members of bodies of political parties (Communications Regulatory Agency Rule 77/2015 on the Provision of Audio-visual Media Services and Rule 76/2015 on the Provision of Radio Media Services, Article 30 and Article 33, respectively [Pravilo 77/2015 o pružanju audiovizuelnih medijskih usluga and Pravilo 76/2015 o pružanju medijskih usluga radija. RAK], however, their independence is questionable in practice. The majority of public media have not established an editorial board as the advisory body with the task of representing the community which the media serves.

23 First example is from Hodžić (2014:153), and the second is from Sokol (2017a: 11).

24 Rule 76/2015 and Rule 77/2015, Article 29.

fairness and impartiality, norms pertaining to violence, allowed duration of advertising (which is reduced for public media), etc.²⁵ Generally speaking, public media do not have to fulfil additional criteria in order to obtain funding, but such criteria may be adopted by some city/municipal and cantonal administrations, in accordance with special purposes or specific needs of the relevant local community.

In some cases, government bodies make a positive step in trying to define criteria for allocation of media funding. For example, the budget spending programme of the Ministry of Education, Youth, Science, Culture and Sports of the Bosnian-Podrinje Canton defines the priority areas, including development of pluralism and public information, strengthening media creativity in the area of culture, science, education, sports, etc., informing all segments of society – children and youth, economically and socially vulnerable groups of the population, gender equality, etc. The programme partially refers to individual allocations for media projects, but also the cantonal television, which submits a funding request containing an elaboration of alignment with programme goals.²⁶ Other regular allocations to public media could be regulated in line with a similar principle. What is lacking in this case are precise parameters for verification of the fulfilment of priority goals. While general priority categories are relatively well-defined, the manner of evaluating project proposals of the media and deciding which elements (for example, amount of contents, audience, journalistic value of the contents, innovation, relevance, etc.) shall be valued and by which standards is not precisely defined. The example mentioned above also lacks a precisely defined method of allocating funds and fails to ensure transparency of the procedure and composition of the decision-making commission.²⁷

25 See Code on Audio-visual and Radio Media Services and Code on Commercial Communications (Kodeks o audiovizuelnim medijskim uslugama i medijskim uslugama radija and Kodeks o komercijalnim komunikacijama).

26 Source: *Službene novine BPK* (5/16: 929-933). A financing request is submitted for both types of financing, containing a description of alignment with the programme goal – “enhancing the informing of citizens”, RTVBPK is required to submit a spending report for the previous month, while project proposals are required to contain a description of expected results.

27 The previous cantonal administration was heavily criticised by RTVBPK in terms of the treatment of this public broadcaster (see Gorinjac, 2013).

3.2. INDIVIDUAL ALLOCATIONS TO PUBLIC AND PRIVATE MEDIA: IMPRECISE OR NON-EXISTENT CRITERIA

This part of the policy report pertains to individual allocations of funds (as a rule, based on public calls) and other types of short-term financial assistance to public and private media (by separate decisions) (See Table 1).

Individual allocations to the media are mostly focused on special purposes (such as reporting from local government sessions or subject-specific reporting), and can be allocated to both public and private media.²⁸

Publishing of public calls is an important element of transparently defined criteria and publicly open procedures of allocating public funding to the media. The published public call for media subjects in the territory of the City of Tuzla for reporting on activities of the City Council, city services and public companies is a good example. However, in this particular case, the criteria were defined in general terms and hardly measurable categories: unbiased and fair reporting of information, contributing to promotion of democracy and respect for human dignity. Another example is the Government of the Tuzla Canton (TC), which allocates budget funds for supporting cantonal media annually with the goals of promoting entrepreneurship, crafts, improving agriculture, tourism, culture, health, civil society, etc. (*Službene novine Tuzlanskog kantona*, 12/15). However, both examples failed to disclose the method of evaluating the media applying for the funds or the composition of the decision-making body.

Illustrative examples of public calls for allocation of individual funding to the media demonstrate that the criteria is often imprecise, and that the method of scoring applications and distribution of funds is usually not defined, which seriously questions the legitimacy of these practices.²⁹ The BiH Performance Audit Report from 2016 confirms that the criteria specified in public calls for allocation of funds are not fully clear or measurable, that the method of distribution of funds to users remains unclear, and recorded

28 Financing with a similar purpose can alternatively be defined on a commercial basis, usually through public procurement of media services, but in this policy report we shall not cover those forms of funding.

29 The media can obtain funding from other sources, such as funding of projects of cultural institutions. See more in Sokol, 2017 d.

some inconsistencies in the method of administrating the procedures, defining criteria and evaluation of applications.³⁰

There are reports of funding allocation procedures that are not based on public calls but on individual requests of the users and decisions of government institutions. These cases are especially problematic because the criteria and evaluation methods are even less transparent or not defined at all. They mostly include allocations of one-off, short-term forms of assistance to the media, such as allocations from budget reserves or allocations of surplus revenues of public institutions and companies to the media. Table 2 lists examples of allocating funds from the budget reserves of the Budget of Institutions of BiH and International Obligations of BiH.

TABLE 2. EXAMPLES OF SHORT-TERM FUNDING ALLOCATIONS BASED ON INDIVIDUAL DECISIONS

RECIPIENT, AMOUNT OF FUNDS AND YEAR	PROCEDURE AND PURPOSE
Radio Herceg-Bosna, BAM 50,000, 2015	Funding approved by the Council of Ministers of BiH. Purpose: media support.
Croat radio "Bobovac", Vareš, BAM 3,000, 2016	Funding approved by decision of the Croat member of the Presidency of BiH. Purpose: procurement of technical equipment for programme broadcasting.
Company Simurg Media (publisher of Stavand Faktor), BAM 8,000, 2016.	Funding approved by decision of the Bosniak member of the Presidency of BiH. Purpose: organisation of award ceremony – literary awards of Stav magazine.

Source: audit report, official gazette and CRMA research³¹

Similar practices continued in 2017, with the media reporting a total of BAM 1.6 million distributed from the budget reserve to different recipients,

30 In the period from 2014 to 2016, a total of BAM 66 million was spent on individual allocations to different recipients at the level of BiH. In some cases, the criteria were discriminatory, and in others the selection of recipients was not carried out in accordance with the defined criteria, nor was there a clear assessment method (Ured za reviziju institucija BiH, 2016: 7 and 21–22).

31 Sources: first example, Ured za reviziju institucija BiH (2016a: 67), second example: Službeni glasnik BiH, 2/3, third example: Omerović 2017.

including RadioHerceg-Bosna, which received the same amount as in 2015.³²

These examples illustrate the problematic practices in terms of allocating budget reserve funds to the media. The allocation of these funds to different subjects, including the media, is questionable because it should theoretically be saved for urgent and extreme situations. The fact that the decision-making criteria for the allocation of those funds are unknown and cannot be obtained by way of formal information requests is even more problematic.³³

Individual decisions can similarly be made to allocate the surplus revenues of public companies and institutions to public and/or private media, as well *asad hoc* decisions on allocating budget funds to the media. Considering the fact that examples of such allocations that we were able to identify are related to public broadcasting services, we will present them in the following section.

3.3. INDIVIDUAL ALLOCATIONS TO PUBLIC BROADCASTING SERVICES: VIOLATION OF INDEPENDENCE

The public broadcasting system in BiH, with three broadcasters: BHRT, RTVFBiH and RTRS, should, under the legislative framework, be financed from subscriptions and advertising. These forms of funding are one of the formal guarantees of editorial independence which, compared to direct funding from public budgets, reduce the possibility of governments to influence editorial policies (See more in Chapter 5).

In previous years there have been individual allocations of government bodies to public broadcasters in BiH, but without adequate solutions for collecting broadcasting taxes, the three broadcasters are facing the most severe financial crisis yet. The Parliamentary Assembly of BiH has not adopted amendments to the Law on the Public Broadcasting System which would ensure a sufficient level of tax collection and adequate system of

³² See: N1, 2018.

³³ Information officers of the Presidency of BiH have yet to respond to our inquiries. The Ministry of Civil Affairs replied that it was not the Ministry that issued the Decision to allocate funds to Radio Herceg-Bosna, but the Council of Ministers. Source: Zorica Rulj, spokesperson, written correspondence, 28 March 2017 and 5 April 2017.

distribution of collected funds between the three public broadcasters.³⁴ This resulted in a need for alternative methods of funding public broadcasting services, with public budgets being the only realistic source of funding. Examples of individual allocations to public broadcasting service from 2017 demonstrate that multi-million amounts are at play (See Table 3).

TABLE 3. ILLUSTRATIVE DATA ON THE FUNDING OF THREE PUBLIC BROADCASTERS

	AMOUNT OF FUNDING	YEAR	INSTITUTION ALLOCATING THE FUNDS	PURPOSE AND/OR EXPLANATION
RTRS	BAM 2,000,000	2017	Government of Republika Srpska	Procurement of equipment, due to the “low level of collection of broadcasting tax and poor situation of public broadcasting services”
RTVFBiH	BAM 382,000	2015	Ministry of Transport and Communications of FBiH	Technical equipment in the context of introducing digital television
BHRT	BAM 1,452,087	2017	Decision of the Council of Ministers allocating surplus revenues of RAK	Strengthening the public broadcasting system, for payment of debts to the European Broadcasting Union

Source: official gazettes and representatives of government institutions³⁵

Such direct funding of public broadcasting services increases the probability of endangering their independence (even more than it already is). It is problematic that decisions on these allocations are made on an *ad hoc* basis, without previously defined principles, criteria or procedures, which gives way to possible misuses. While current legislation allows for such

34 BHRT and FTVBiH recently signed an agreement with Elektroprivreda BiH [Power Supply Company, public company] on collection of broadcasting taxes through electricity bills. In Republika Srpska, collection of broadcasting taxes is still carried out through the M:Tel account, while a similar agreement has not been made with Elektroprivreda HZ HB, and HT Mostar no longer collects broadcasting taxes through telephone bills.

35 Source: for RTRS, Vlado Blagojević, Secretary General, General Secretariat of the Government of Republika Srpska, written correspondence, 17 March 2017; for RTVFBiH: *Službeni glasnik BiH* (11/6: 225); for BHRT: *Službeni glasnik BiH* (7/17: 8).

individual allocations for all three broadcasters – BHRT, RTVFBiH and RTRS, cases of which have been reported in practice as well, it is important to emphasize that the Law on RTRS also allows for direct allocations to RTRS from the Budget of the Government of RS to become the dominant method of financing this broadcaster.³⁶

3.4. STATE AID REGULATION SYSTEM: LACK OF PRECISELY DEFINED CRITERIA

All models of allocating funds to the media that have been presented in the previous sections of this policy report fall under the state aid system. The system was taken over from regulations of the European Union,³⁷ as part of the accession process, by adopting the Law on the State Aid System in BiH in 2012. The primary goal of the system is to monitor state aid and prevent any violations of market competition between member states and the joint EU market. The rules pertaining to state aid are, among others, applicable to the media sector. At the same time, international standards recognise state aid to the media as an important contribution to freedom of expression and pluralism (see Chapter 5). The state aid regulation system stipulates that, before allocating any aid exceeding EUR 200,000 to one subject over three fiscal years, it is necessary to obtain approval from the State Aid Council of BiH. Approval is not needed in case the services in question are “of general economic relevance”³⁸ or for smaller amounts. In principle, the system could be the means of enhancing monitoring of media allocations, however, in practice the criteria are incomplete, while transparency and monitoring of these allocations remain limited.

36 Law on Amendments to the Law on the Public Broadcasting Service of Republika Srpska (*Zakon o izmjenama i dopunama zakona o Radioteleviziji Republike Srpske, Službeni glasnik RS, 38/13*) – Article 2, i.e. Article 38, paragraph 4 of the consolidated Law.

37 State aid includes subsidies, grants, tax deductions or tax exemptions, debt write-offs or take-overs, loans, loans with preferential interest rates (*Zakon o državnoj pomoći, Article 2.a*), allocated by state, entity, cantonal and municipal governments, as well as the Government of Brčko District of BiH, which place the recipient legal entity in a more favourable position in terms of market competition (Article 3).

38 Article 6.c of the Law on the State Aid System. Services with economic significance are generically defined as “services of special importance to citizens, which would not be available to citizens, or would be available under less favorable conditions than normal, without intervention of public bodies” (Article 2.m).

Nevertheless, the state aid system in Bosnia and Herzegovina partially defines the conditions of financial aid to the media, but only through conditions for public media and only in the regulation of the Federation of BiH,³⁹ whereas the regulation in Republika Srpska does not contain any such conditions.⁴⁰ Practically speaking, however, the existing conditions did not lead to precise definition and evaluation of the criteria for state aid to the media. The public media in FBiH, according to the defined criteria, can receive state aid if they: a) meet public interests at the national and local level, b) account for “national representation of informative, cultural, educational, sports and entertainment programme”, and c) broadcast radio or television programme relevant for citizens of Bosnia and Herzegovina, i.e. the Federation. There is also the condition that the media must keep separate accounting of advertising revenues, as well as the condition that an independent body monitors the provision of public service.

These conditions are taken into consideration in cases when government institutions submit requests to the State Aid Council (hereinafter: the Council) for approval of state aid to public media. However, the Decision of the Council regarding the request of the Government of the Tuzla Canton for approval of state aid in the amount of BAM 1,520,000 to the Radio–Television of the Tuzla Canton (RTVTK) in 2014 illustrates that these conditions are not comprehensively considered, but rather that conclusions are mostly based on formal logic. In this specific case, the Council concluded that the conditions from the FBiH Decree have been met (See Table 4).

39 The Decree on purpose, criteria and conditions for allocating state aid in FBiH (Uredba o namjeni, kriterijima i uvjetima za dodjelu državne pomoći u FBiH. *Službene novine Federacije BiH*. 99/13) – hereinafter: the FBiH Decree –Article 67.

40 The Decree on purpose, criteria and conditions for allocating state aid in Republika Srpska (Uredba o namjeni, kriterijumima i uslovima za dodjelu državne pomoći u Republici Srpskoj, *Službene novine Republike Srpske*, 105/13).

TABLE 4: ANALYSIS OF AN ILLUSTRATIVE DECISION ON ALLOCATION OF STATE AID TO PUBLIC MEDIA

CONDITION	DECISIONS OF THE STATE AID COUNCIL OF BIH	NEGLECTED ISSUES
Existence of an independent body to monitor public service provision	The condition has been met because the Communications Regulatory Agency monitors the provision of public service in the area of radio and television broadcasting.	The fact that the body in question, or any other body for that matter, does not carry out systematic monitoring of media contents, and that there is no information on the exact way in which the television station provides public service, was not taken into consideration.
The medium provides services of general interest	The condition is met because: the public mission of the medium is stated within the framework of the Law on RTVTK, RTVTK has an Editorial Board, whose members are appointed from “the order of prominent representatives of education, science, culture, sports institutions and religious organisations.” ⁴¹	The Council made no attempt to estimate how and to what degree the public mission of RTVTK is practically implemented, including possible politicisation of appointments, nor did it estimate the operations and effect of those bodies in practice. ⁴²

Furthermore, in the example given, considering the fact that the Council decided that the services were indeed of special importance to the citizens, which would not be available without intervention of public bodies, the conclusion is that there was no need for the Council’s approval in the first place (*Službeni glasnik BiH*, 45/16: 19). Consequently, the decision sets a precedent by which services of the public media are almost automatically to be considered services of general interest, thereby missing the opportunity to review the current and establish a better system for ensuring that publicly financed media act in public interest.

41 *Službeni glasnik BiH* (45/16:18).

42 There are frequent accusations of political bias of public media, with the opposition in the Cantonal Assembly claiming that RTVTK is at the service of only one political group. Source: Muris Bulić, Centres for Civic Initiatives Tuzla (Centar civilnih inicijativa), 27 February 2017.

As a whole, the criteria from the aforementioned FBiH Decree which are meant to ensure that the work of publicly funded media pursue public interests and that they are important to the citizens of BiH are not further specified, while the conditions for allocating state aid to the media in RS and private media in FBiH are not defined at all. In the context of state aid to the media, it is also problematic that no estimates are made of the real costs of specific media services of public interest or whether publicly financed media adequately perform that function.

Finally, the fact that only two applications for state aid to the media have been submitted to the Council so far suggests that the amount of aid to individual media over the course of three fiscal years is less than EUR 200,000, and is therefore not the focus of state aid regulation. For the sparse local market, however, this is still a high threshold and a significant amount. It is also possible that government bodies are still not familiar enough with the obligation to submit approval requests, which is suggested by the fact that it is not unusual for *ex-post* requests to be submitted to the Council.

The system of implementing and monitoring of state aid to the media in BiH has not yet been worked out in a way that would ensure it contributes to improving the criteria and the legitimacy of the mechanisms of public funding of the media.

4. COMPOSITION OF BODIES MAKING FUNDING DECISIONS: INDEPENDENCE AND LEGITIMACY OF DECISION-MAKING NOT GUARANTEED

The system of media funding in Bosnia and Herzegovina from public budgets at all levels of government – from the Presidency of BiH to city and municipal administrations – is established so that decisions are made exclusively by political bodies, without consulting media and communication experts.

The budgets of cantonal and local public media are adopted by municipal councils or cantonal assemblies. The Law on Local Self-Government of FBiH (Article 18) additionally allows for municipal or city mayors to adopt

the budgets independently in case the deadline for their adoption in the regular procedure (90 days from the beginning of the budget year) expires.⁴³ The director of one radio station claims that, in the end, everything depends on the will and character of the person at the head of the city.⁴⁴

When it comes to allocating funds to the media on the basis of a public call, evaluations of the received applications are carried out by the commission established for that purpose. However, the illustrative examples suggest that members of such commissions consist of associates/employees of government institutions, and that there are no defined standards in terms of professional qualifications required for performing these functions, which can additionally compromise the legitimacy of their decisions and opens the possibility of biased decision-making.

In case of annual allocations of funds to the media by the Government of Tuzla Canton, the government issues the criteria, announces the public calls for allocation of funds, appoints the commission for selection of projects, and drafts the funds distribution proposal (*Službeni glasnik TK*, 2015, 12: 1297-1298). Persons working or cooperating with the media within the government or competent ministries are appointed as members of the commission. In 2016, out of three members of the commission, two had master's degrees in journalism.⁴⁵

However, there are usually no pre-defined or published norms in terms of the composition or professional qualifications of members of these commissions. The procedures for selection of commission members and their profiles are also not proactively communicated to the public.

In *ad hoc* decisions on media funding, adopted without public calls, the independence and legitimacy of decision-making are particularly questionable because not even minimal transparency is ensured in terms

43 In 2017, this was used by the Mayor of Lukavac and Mayor of Zenica. The budget for RTV Zenica was decreased by the mayor's will, and this broadcaster was denied funding for three months (Sokol, 2017e).

44 Source: Enesa Hrustanović, Director of RTV Bihać, interview, 19 May 2017.

45 Source: Mensur Begić, information advisor, Prime Minister's Office, Government of TC, interview, 12 July 2017. Members of the commission for 2016: master of journalism at the position of information advisor to the prime minister, master of journalism at the position of culture and information advisor of the Ministry of Education, Science, Culture and Sport, and electrical engineer from the Prime Minister's Office who works on cooperation with the non-governmental sector.

of the criteria or procedures of the allocation of funds. The decisions are made exclusively by political bodies or officials. Consultations with expert advisors or independent media and communications experts are possible, but not prescribed as a mandatory part of the decision-making process. Decisions on allocations of funds from the budget reserve to different subjects, including the media, are, for example, made by members of the Presidency of BiH or a specific ministry (Omerović, 2017). In short, there are no guarantees that decisions on media funding will be made by persons with adequate professional qualifications, nor that the composition of the decision-making bodies will meet the principle of independence from all particular political interests, i.e. the principle of balancing interests of various social groups. Nevertheless, the example of the Tuzla Canton commission proves that government institutions can select persons with media-specific experience or qualifications as commission members.

In addition, there are no sufficient guarantees that the persons deciding on funds allocations have no private or other interests in the media receiving the funding. There is a general legislative framework for the prevention of conflicts of interests at all levels and in all government institutions in BiH, but the monitoring of its implementation is questionable.⁴⁶

The development of norms in terms of enhancing the legitimacy and independence of decision-making has, along with other issues pertaining to media funding from public budgets in BiH, not received adequate attention until now. Hence the need for this Mediacentar policy report and generally for increased involvement of both the public and civil sector in attempts to make urgent and necessary changes.

In the next part of this policy report we will first introduce international standards and various media financing models in other countries, and then focus on how they define financing criteria (5.1.), how they regulate the selection of members and composition of decision-making bodies in media financing (5.2.), and finally turn to transparency standards in some examples of media allocations (5.3.).

46 The authorities of Republika Srpska identified conflicts of interests in a number of cases. However, conflict of interests is not monitored in the Federation of BiH, while the state-level commission has not decided on a single case since it was appointed due to administrative barriers. European Commission (2016: 16).

5. INTERNATIONAL GUIDELINES AND EXPERIENCES OF OTHER COUNTRIES: ENCOURAGING FREEDOM AND PLURALISM

International standards of protecting the freedom of speech and freedom of the media – primarily the Council of Europe’s Declaration on the Freedom of Expression and Information from 1982 – not only stipulate that the state must not endanger media pluralism, but that it should actively encourage it. Media funding policies should also, at least partially, focus in that direction (Vijeće Evrope, 2017). The European Union also included the protection of media plurality in its standards and ensured financial assistance to the media through the state aid programme in order to promote cultural diversity, social cohesion and satisfy “society’s democratic, social and cultural needs.”⁴⁷ Although initiatives for the development of joint EU legislation in this area failed, the protection of media freedoms and plurality through research and monitoring has been receiving increasing attention in the past years. In 2013, the European Parliament issued the Resolution calling upon member countries and the European Commission to adopt measures for the monitoring and achievement of media freedoms and pluralism.⁴⁸

Financial assistance to the media with the purpose of promoting pluralism is related also to the promotion of communication needs of national minorities, with a series of international documents additionally dealing with the approach and manner of representing national minorities in the media. Signatory countries are committed to ensure the establishment of at least one radio or television station in the minority languages, and support the training of journalists and other staff of such media, while making

47 Council of Europe, information on state aid control available at: http://ec.europa.eu/competition/sectors/media/overview_en.html#stateaid.

48 The EU also supports research of media freedom and pluralism through the operations of the Centre for Media Pluralism and Media Freedom of the European University Institute in Florence, the European Centre for Press and Media Freedom (ECPMF) in Leipzig, and Media Pluralism Monitoring. Information on monitoring available at: <http://cmpf.eui.eu/media-pluralism-monitor/>.

adequate provisions for broadcasting programmes in their own language in media financed from public funds.⁴⁹

The Council of Europe also acknowledges the need for states to provide assistance, including financial support, to community media, in order to ensure “the realisation of their role in promoting social cohesion and intercultural dialogue” (Lange,2009: 35).

State aid to the media in different countries has the objective to “ensure broad dissemination of news and information, to promote the diversity of voices and opinions in the media, and to generally guarantee sustainability of the media sector” (Psychogiopoulou, 2013: 85). However, the interventions aimed at supporting this are very different (See Table 5).

TABLE 5. REVIEW OF SOME FORMS OF MEDIA ASSISTANCE IN OTHER COUNTRIES

TYPE OF STATE AID AND BENEFICIARIES	EXAMPLES IN SPECIFIC COUNTRIES
Indirect assistance: Reduced VAT rate, most often for print media	UK: 0 % Sweden: 6 % Germany: 7% Serbia, Croatia, Macedonia: 5 % Montenegro: 7%
Other types of indirect assistance to the media	Financing printing costs (France) Reduced interest rates (Italy) Financing trainings for journalists and media research (Netherlands)
Direct allocations: public broadcasting services	Through broadcasting taxes, per household (Norway) Through individual taxes for public services (Finland) Through direct funding from public budget (Serbia)

⁴⁹ European Charter for Regional or Minority Languages, Article 11, Central European Initiative for the Protection of Minority Rights, Article 19, Oslo Recommendations Regarding the Linguistic Rights of National Minorities, Office of the High Commissioner on National Minorities, The Hague, 1988; Framework Convention for the Protection of National Minorities of the European Council, particularly Article 9.

Direct allocations: Private media	Financing distribution costs (Sweden) Financing media with low advertising revenues (France) Financing operational costs for preservation of pluralism (Sweden) Financing contents of special public interest (Ireland, Serbia, Croatia) Financing innovation and modernisation (France)
Direct allocations: Non-profit media	Financing non-profit media (Croatia until 2016) Support to pluralism (UK, Croatia) Financing local public media (Netherlands)

Sources: Živković 2016, Schweizer 2014,⁵⁰ Van Zanten 2018, Sejdinović 2018

Reduced VAT rate and reduced production and distribution costs are traditional forms of state aid in many countries, primarily meant for print media. Indirect assistance to print media is also a response to the sustainability problem that print media have been facing at an increasing rate over the past decades. However, reducing the VAT rate for print media was met with strict criticism in some countries. In Croatia, the criticism was based on the claim that the reduced VAT rate only helped the financial interests of media companies, without improving the quality of journalism or fulfilling the communication needs of the citizens (Popović, 2014: 199–200).

Regular direct assistance to public media, primarily referring to public broadcasting services, is standard practice in many countries, while the best examples involve funding either through taxes calculated from the income of each individual, or through revenues from broadcasting taxes. Direct financing of media through public budgets either jeopardises the independence of public media, or “in the best case, the public perception of their independence” (Papathanassopoulos 2007, in Benson and Powers 2011:12). The European Commission requires member states to define the obligations that public broadcasting services must fulfil in terms of public interests, as well as to ensure monitoring of the fulfilment of that function by the media (Tosics et al 2008:1). In addition, state aid should

50 For a more detailed review of practices in other countries, see: Živković (2016: 20 and 21), for a detailed review of data on reduced VAT rate, see: Schweizer (2014: 8).

adhere to the principles of transparency and be proportionate to actual costs of performing public function. Based on estimates of those costs, the authorities of Spain, for instance, reduced the labour force of the public broadcaster to the level necessary for fulfilling the role of public broadcasting, by financing early retirement measures (Dias and Antoniadis, 2007: 69). Another way to guarantee that state funds are not being used for commercial activities instead of activities in the public interest, is clear separation of revenues from the public sector from other, commercial activities.⁵¹ In some countries, such as Australia, the United Kingdom, Denmark, and Germany, public media funding is provided on a multi-year basis which, compared to short-term funding, reduces the possibility of government institutions allocating or denying funds based on the current tone of reporting on their activities (Benson and Powers, 2011: 12). In many countries, government institutions are not allowed to allocate funding based on the estimated quality of the media contents, but the adoption of the strategy of public media activities and monitoring of their fulfilment of the public function is ensured. For example, the government takes part in negotiations regarding the BBC's ten-year Royal Charter, and apart from the regulatory agency, BBC's internal body, the "Trust," also monitors activities of the BBC (Benson and Powers, 2011: 12).

Targeting state aid to support **innovative business and technology solutions** in the media is based on the understanding that innovative solutions are necessary for the media to adapt to the market reality that leads to the loss of media influence and sources of revenues. In the Netherlands, slightly less than three million euros of public funding is annually directed towards innovations and special journalistic projects (Van Zanten, 2018). It is important to note that technology innovations can be an important part of efficient assistance to the media sector, but that other interventions are also needed, because innovations by themselves are not necessarily able to contribute to the financial sustainability of media companies, or ensure high quality of journalism. To illustrate this, the majority of media start-ups and innovative media projects that were supported by international donors in BiH did not survive after donor support was withdrawn.⁵² In the Netherlands it was announced that five million euros will soon be allocated to support research journalism (Van Zanten, 2018).

51 For more information on standards of state aid to public media, see: Tosics et al., 2008, and Repa and Tosics, 2009.

52 See e.g. Barišić et al., 2016.

Targeting public funds on **non-profit media** is based on the understanding that non-profit media serve the communication interests of the community more effectively than commercial media, and that supporting them promotes media pluralism fundamentally, instead of just formally. One example of providing assistance to non-profit media is found in Croatia, where between 2013 and 2015 non-profit media were annually allocated around EUR 400,000 (Živković, 2016: 9).

In some examples, support is focused on project-based financing of the **production of media contents of public interest**, where public interest is defined within a concrete context and with specific tender rules for public funding of the media. For instance, as of 2014 Serbia provides co-financing of projects aimed at production of media contents of public interest, while in Croatia, the Fund for Promotion of Pluralism and Diversity of Electronic Media, among other activities, focuses on producing media content relevant for minorities and human rights (Sejdinović, 2018; Rulebook on Fund for Promotion of Pluralism and Diversity of Electronic Media). Financing the production of media contents of special public interest can contribute to the better treatment of specific subjects and social groups, but also carries the risk of ghettoising them and limiting them only to “special” media contents. For that reason, it is important that the state and other stakeholders act for the integration of these topics and improving the representation of these social groups in regular media contents.

All forms of assistance that have been presented, including funding special contents and technological innovations, can contribute to public interests, but in order to stimulate quality journalism it is also necessary to support the basic costs of journalism, which includes compensating journalists for their work and encouraging employment of journalists (Pickard, Stearns and Aaron 2010). Živković (2016) also suggests that focusing support on non-profit media is more likely to contribute to public interest, considering the orientation of non-profit media on a specific community and their non-profit nature, which excludes particular commercial interests.

Regardless of the form and beneficiaries of assistance, it is necessary to establish criteria based on public interest and mechanisms for preventing abuse: transparent goals, conditions, allocation rules and procedures, as well as legitimately elected, competent members of expert commissions that select media which will receive public funding.

5.1. MORE PRECISE MEDIA FINANCING CRITERIA AND MATHEMATIC CALCULATION OF THE AMOUNT OF ASSISTANCE

The criteria for deciding which media will receive financial support of government institutions are different from one country to another, but most often refer to: a) content – usually a certain amount of original content, and/or producing contents on specific, pre-determined topics; b) market position – share in the advertising market and media coverage in terms of circulation/number of users; and c) organisational characteristics – certain number of employed journalists, information on owners, etc.⁵³

Good examples of *direct media allocations* include precisely defined criteria and manner of distributing funds. In the example of allocations to print media in Sweden in 2015, aimed at improving internet editions of print media and assisting with operative costs of the editorial office, eliminatory criteria were established (15 thousand **subscribers** and a precisely defined **amount of original content**, as well as **informative character** of editions), while the principle for determining the amount to be allocated to each media that meets the eliminatory criteria was based on multiplying weekly circulation by the pre-determined coefficients, which were lowest for newspapers with high circulation (Živković, 2016: 6-7 and Živković, 2018).

The definition of public interest in *project-based funding of media contents* in Serbia is based on referencing journalist **ethics**, providing information in the **Serbian language**, preserving the **cultural identity** of the Serbian people and national minorities, providing information to persons with disabilities and other **minority groups**, developing **democracy and human rights**, etc.⁵⁴ Similarly, the Croatian Fund for Promotion of Pluralism defines public interest criteria through a series of different categories such as promoting cultural pluralism, languages and interests of national minorities, equality of gender and sexual identities, environmental protection, etc.

53 Primary source: Schweizer (2014:11).

54 Law on Public Information and the Media, Article 15. In practice, however, it is considered that this system of financial assistance is abused to support media that are loyal to the government (See: Sejdinović, 2018).

The criteria for funding *innovation and special journalistic projects* in the Netherlands primarily refer to **innovativeness and journalistic character of projects**, followed by their **sustainability** (where advantage is given to projects that provide evidence of the existence of their target market), as well as **the structure of the team** that will be implementing the project (advantage is given to media whose team consists of other relevant profiles in addition to journalists – technicians, designers, managers, etc.) (Van Zanten, 2018).

Before 2016, the condition for funding non-profit media in Croatia was that media function on a **non-profit basis**, i.e. that any surplus of revenues shall be invested in journalism (Živković, 2016).

The above examples suggest possible ways to clearly define criteria for the purpose of minimising arbitrary decision-making on allocation of public funding.

5.2. DECISIONS ON MEDIA FUNDING MADE BY COMPETENT AND LEGITIMATELY ELECTED BODIES

Well-defined criteria for allocation of public funds restrict the discretionary power of the bodies making decisions on the allocation of those funds, thus reducing the potential influence of particular political and other interests. However, the criteria are often not defined in a way that would allow their automatic application and exclude all subjective estimates. The criteria in aforementioned examples of state aid are not precisely defined, such as “quality” and “innovativeness of content” of the Croatian Fund for Promotion of Pluralism, or the general informative character of the media in the case of assistance to print media in Sweden. For this reason, it is crucial to ensure that decisions are made by an independent body with expert competences related to the media and communication rights of citizens.

Article 19, an organisation for promoting freedom of speech from Great Britain, claims that public funds should be distributed by an independent body, and that this is the most common practice in European and other countries.⁵⁵ There are other examples where the decisions are made by

⁵⁵ Article 19 (2017: 5-6).

regulatory bodies in charge of the media sector, or special commissions within those bodies, and in not-so-good practices, even ministries or other government bodies (Schweizer, 2014: 11). The members of these bodies should be selected in concordance with independent procedures, where the professional qualifications of the candidates are the primary criterion. It is also necessary to ensure legitimacy in electing the members of these bodies, and demonstrate it to the public. Members of expert commissions are usually appointed by political bodies or independent state institutions. In the case of funds granted by the Dutch Journalism Fund, this independent state institution, i.e. its director, employs external experts who evaluate received applications and innovative project proposals, after which the Agency Board makes the final decisions based on those evaluations.⁵⁶

Other ways to guarantee the legitimacy of the choice of experts include: publishing public tenders, pre-defined criteria focusing on professional qualifications, transparent election procedures based on a public tender, disclosure of each candidate's evaluation results, as well as disclosure of professional profiles or CVs of the members of these bodies. In the case of the Croatian Commission for Non-Profit Media, the Ministry of Culture elected seven external members of the expert commission from the public tender, with all candidates having to demonstrate their understanding of the functioning and purpose of non-profit media. Appointment of political officials was not allowed, and after reviewing the received applications, members were required to sign statements on their impartiality and non-existence of conflict of interest (Živković, 2018).

A greater number of members, with representatives of the governmental and non-governmental sector, can increase the legitimacy of these bodies. In France, the members of the commission deciding on indirect assistance to printed media are elected in line with the principle of parity and include representatives of journalist unions and government representatives.⁵⁷

In some cases, at least some of the candidates are proposed by the civil sector. In Serbia, for instance, it is stipulated for project-based funding that members of the expert commission must be elected at the suggestion of journalist

56 The board members are however appointed by a political body, even though in practice the current board members and director make suggestions that are then approved by the ministry. Source: René van Zanten, written response, 23 January 2018. Applicant may appeal the decision, which is then revised (Van Zanten, 2018).

57 *Ibid.*

and media associations. However, the election was not transparent enough in this example, it was degraded by the practice of *ad hoc* establishment of associations for the sole purpose of advocating particular interests, thus failing to ensure political impartiality (Nikolić, 2016; Sejdinović, 2018).

Instead of setting up these expert commissions, the alternative suggestion is public voting on the distribution of public funds to the media, with some experiences suggesting that the voting results are not different from decisions of expert commissions (Živković, 2016: 12). One proposed model includes each citizen choosing a non-profit media to which they would like to allocate funds, with public funding distributed to each media in proportion to received “votes.”⁵⁸

5.3. TRANSPARENCY THROUGH INTERNATIONAL STANDARDS, LEGISLATION AND/OR PROGRESSIVE PRACTICES

Media funding from public funds is subject to the state aid system in all of Europe. Member countries are required to publish information on all state aid, including name of recipient, amount, legal basis and purpose of aid, and they are also obligated to submit annual reports to the European Commission (EC) on allocated aid.⁵⁹ The EC gives its approval of the planned state aid in member states and can carry out a formal inquiry of whether allocated aid is in accordance with the rules of state aid and whether there are any violations of market competition while evaluating received requests for approval or received complaints. However, approval of the EC is not required for aid under the amount of EUR 200,000 for one business entity over a period of three fiscal years. The legitimacy of state aid is primarily reviewed in terms of preserving the joint economic market, but the respect of general rules of state aid and previously mentioned sector rules for state aid to public broadcasters is also monitored.⁶⁰

Transparency standards are more precisely defined by the laws of each country. A good example is the Act on Transparency of Media Cooperation

58 For more information on the so-called voucher system, see: McChesney and Nichols (2010).

59 European Commission, 2014. General Block Exemption Regulation – GBER, Article 9, and Communication 2014/C 198/02.

60 Communication from the Commission on the application of state aid rules to public service broadcasting, 2009/C 257/01

and Advertising of Austria,⁶¹ which stipulates that public offices and public companies must publish information on financial transfers to the media on a quarterly basis, while the regulatory agency monitors implementation of this provision. In other examples, transparency is regulated through laws on regulatory bodies, or comprises part of other laws that are relevant to the media sector. Article 64 of the Electronic Media Act of Croatia prescribes that information on the users and reports of the users of the Fund for Promotion of Pluralism and Diversity of Electronic Media must be published on the website of the Council for Electronic Media. The Ministry of Finance also collects all data and analyses the efficiency of state aid in Croatia (Živković, 2018).

Furthermore, in some cases transparency is defined in more detail through concrete instructions for media support public tenders. In Croatia, for instance, instructions for the non-profit media programme contained the obligation to not only publish the names of recipients and amount of received state aid, but also the complete list of names and evaluations of all applicants, both those that received aid and those that did not (Živković, 2018).

The obligation of the media to submit reports on achieved results and spending of received funds is still one of the most important mechanisms of transparency. An example of this is found in the funding of innovative projects in the Netherlands, where the media is required to submit reports on project implementation, without which they cannot receive the remaining amount of state aid. The reports are regularly published on the website of the Dutch Journalism Fund (Van Zanten, 2018: 16).

To allow comparison of data on separate forms of media financing from public funds, which would enable enhanced monitoring, some countries provide uniform forms for the publishing of these data, usually within a centralised and – in best cases – searchable database. For instance, that is the case with the database of the Slovenian Commission for the Prevention of Corruption, which enables simple searches of all monetary transactions of the public sector, by donor or by recipient, with information on the founders, related legal and natural entities, etc. for every recipient of

61 Bundesgesetz über die Transparenz von Medienkooperationen sowie von Werbeaufträgen und Förderungen an Medieninhaber eines periodischen Mediums (Transparenzgesetz), 2011, in: Živković (2018).

public funding.⁶² Experiences with the central registry of data on state aid to the media in Serbia suggest that it is necessary to set up mechanisms for ensuring timely delivery of accurate and full information.⁶³ In some countries we can even find examples of comprehensive reports and analyses of state aid,⁶⁴ which are an important step towards estimating the real effects of these allocations on the quality of journalism and needs of citizens and enable well-founded audits of future media financing patterns.

6. CONCLUSIONS: GUIDELINES FOR ENHANCING THE MODEL OF PUBLIC FUNDING OF THE MEDIA

By financing media from public funds, the state not only intervenes in the economic market, but also in media freedoms, pluralism and “marketplace of ideas” (Bard and Bayer 2016: 39). If the market is too weak to ensure media freedoms and pluralism, media allocations become necessary in order to ensure that the communication, cultural and democratic needs of the society are met. Despite the fear that direct assistance to the media will increase influence of the public sector on editorial policy, practice has shown that countries with the freest media have a long tradition of providing financial assistance to the media (Schweizer et.al, 2014: 5). However, to ensure that public funds are truly directed towards promoting the communication needs of citizens, it is necessary to develop a funding system that will start with a factually founded definition of public interest and related criteria for allocating aid, be based on transparent procedures and include adequate guarantees for preventing any abuse.

To that end, it is necessary to improve the mechanisms for financing the media from public funds in Bosnia and Herzegovina. At this time, there is no concrete concept of public interest that different forms of funding should serve, while the end goal to be achieved –in other countries it is mostly defined within the terms of pluralism, media freedoms, cultural and

62 Available at: <https://erar.si>

63 Database established in 2015, available at: <http://www.apr.gov.rs>, including data on media ownership. However, the data is incomplete and searchability is not ensured.

64 Such an analysis was, for instance, published by the Ministry of Culture of the Republic of Croatia. See: *National Media Report, Third Media Sector*.

democratic needs –in these allocations in BiH remains unclear. The lack of transparency in terms of the amounts and procedures of allocation of these funds as well as unclear and imprecise criteria leave room for possible misuse and definitely deteriorate the public perception of the legitimacy of these allocations and the independence of media benefiting from the funds. For this to change, it is necessary to revise and improve procedures of regular and individual allocations for both public and private media. This policy report lays down examples of well-defined criteria that can be the starting point in defining the rules of formulating criteria in all patterns of media funding from public budgets in BiH. Similar criteria in other countries range from market-related (impact and audience), to organisational (certain number of employees, etc.), and content-related criteria (specific amount of original material, production of contents pertaining to specific topics and to/for specific social groups). Such criteria can be applied in BiH in the extent which is estimated to support media freedoms and pluralism, contribute to the quality of journalism, and meet the needs of the public.

The legitimacy of allocating public funds to the media is enhanced in systems where independent, expert commissions make the decisions instead of political bodies. Therefore, the report also presents some models in which the legitimacy of those bodies is ensured and demonstrated to the public.

In terms of transparency, the presented open processes based on public calls are better examples than closed-off decision-making without public calls, but need to be improved in BiH by clearly defining within the text of the public call the procedure, criteria and evaluation method for the media, composition of the commission deciding on funds allocation, as well as ensuring disclosure of information and evaluation results after the procedure is completed. The report presents examples of transparent practices in different stages of the funds allocation procedure, from the publishing of tenders to disclosing its results.

The public media in BiH, including the three public broadcasters in Bosnia and Herzegovina, local and cantonal broadcasters and entity news agencies, are dependent on local authorities. One of the main reasons for this is the inadequacy of the current patterns of public media funding. Public broadcasters are in a financial crisis, some of the local media also operate with minimum funds, while entity news agencies and part of cantonal local

broadcasters have had relatively stable sources of funds until now. However, all these media are in the position of excessive financial dependence on the government, which seriously threatens their editorial independence and public service function. Experiences of other countries and secondary sources suggest some of the possible directions to act in – primarily by introducing multi-year funding of public media, which would minimise the possibility of making funding contingent on positive reporting on governments, and by abandoning the model of direct funding from public budgets. Furthermore, regular allocations of public funds for the public media needs to be justified through a well-defined public role, monitoring to confirm the fulfillment of that role, and demonstrate that public funds are being used responsibly, rationally and solely for performing the function of public interest.

The state aid system does not ensure disclosure of basic information on state aid in BiH, nor does it ensure a greater level of supervision over allocations to the media. Current initiatives from the civil society in BiH focus on developing legislation that would include the issue of transparency of ownership and funding of the media, but so far there have been no concrete changes announced in that direction. Through this report, we advocate for other parallel directions to act in: developing guidelines for allocating public funds to the media and adopting the guidelines/rules in all government bodies. We are aware of the possibility that even well laid out standards of public interest and mechanisms for preventing abuse can be circumvented, so their adoption should be understood as a necessary and integral part of constant efforts to preserve the legitimacy of allocating public funds to the media. Naturally, it is very important to develop institutional and non-institutional supervision and corrective mechanisms for these procedures at the same time, by activating state audits, anti-corruption bodies, the civil society, research journalists and other stakeholders, as unavoidable elements of the fight to preserve democratic principles in financial relations of the government and media.

The alternative models for future media and journalism funding that should prospectively be developed in BiH include relying on tax revenues which would be distributed through an especially established fund for quality journalism, as well as relying on philanthropy and citizens' donations, and subscription-based media funding with the citizens paying cable

and internet operators for accessing journalist platforms.⁶⁵ For now, it is necessary to place the existing models of funding into the function of public interest and communication needs of the citizens.

7. RECOMMENDATIONS

The starting point in developing recommendations was the Anti-Corruption Strategy 2015 – 2019 and Action Plan for Implementation of the Anti-Corruption Strategy 2015 – 2019, which identified the need to ensure transparency and legitimacy of media funding but did not specify exactly how to achieve that. The institutions in charge of the implementation of these activities are the Communications Regulatory Agency, inspection bodies, public broadcasting services, courts and journalists' associations. The First Monitoring Report on the Progress of Implementation of the Anti-Corruption Strategy (2016: 92), prepared by APIK, stated that the Communications Regulatory Agency does not have the capacity to implement these activities because they are not in line with its competencies under the Law on Communications in BiH, while only briefly mentioning the courts, public broadcasters, inspection bodies and associations without elaborating on their roles or capacities. These institutions could partially contribute to increasing the transparency of media funding – public broadcasters through publishing information on their sources of funding and performance, inspection bodies by controlling the legality of media funding and spending of public funds, the judiciary in cases there are suspicions of misuse in the allocation and spending of funds – however, it is obvious that their roles must be precisely defined, and that the necessary capacities and dedication of institutions must be ensured to implement these activities. RAK' authorities could also be developed to include activities for promoting transparency of media funding, while APIK and audit offices could monitor the financial relations of the government and the media, but in that case, it is necessary to provide resources for those activities.

All these institutions and associations, as well as other institutions with media and communications-related authorities, could contribute in the

65 See more in: Živković, 2016 and Njotea, 2013.

promotion of guidelines for precise definition of criteria, transparency and independent decision-making in terms of funding the media from public budgets.

Below we define the fundamental guidelines that each separate institution could adopt, while authorised bodies could promote their adoption and monitor their implementation. The recommendations are primarily targeted to the Agency for the Prevention of Corruption and Coordination of Fight Against Corruption (APIK), which could promote their adoption within their authority for monitoring the implementation of the Action Plan. By integrating these guidelines into their internal rules and procedures, government institutions would demonstrate their commitment to the principles of good governance.

The recommendations also contain specific guidelines for institutions, which could contribute to easier access to information on financial allocations of the public sector to the media. The importance of this information is also recognised in other parallel initiatives of the governmental and non-governmental sector,⁶⁶ which means that there is a possibility that some of these issues will be legally regulated in the forthcoming period.

7.1. GENERAL RECOMMENDATIONS

I. The state and entity-level ministries of finance should ensure clear and uniform presentation of media allocations within the budgets of government bodies. Specifically, it is necessary to ensure consistent use of the same budget items from the charts of accounts for same or similar allocations, with clear distinction between regular and individual allocations to the media, allocations classified by purpose – for funding basic expenses, procurement of equipment, production of specific media contents, etc.; by

66 A working group within the Ministry of Transport and Communications of BiH is currently working on developing the draft law on electronic media which should also regulate the issue of transparency of media ownership and funding. However, RAK fears that the draft will lead to some retrograde solutions (MSI, 2018). The Media and Public Reputation project, led by a consortium of non-governmental organisation including Mediacentar, focuses on giving recommendations and developing a draft law on media ownership transparency and advertising transparency. See more at: <http://www.media.ba/bs/serijal/mediji-i-javni-ugled>. All these activities can be complementary with each other and, by using different means, lead to the same final goal – a more transparent media system and improved integrity of the media.

type of user – public, private, or non-profit media; and with clearly defined end users. These rules could be adopted by special decisions, new rulebooks or amendments to the current rulebooks related to charts of accounts and accounting classifications.

II. Centralised data collection and disclosure and evaluations of the results of public media funding. To achieve this, it is necessary to strengthen the institutional capacities, and authorise independent state agencies such as RAK or APIK to collect and publish information. At the same time, data on all media allocations have to be collected and published, including information on the amounts and purposes of the allocations, main characteristics of the media that received the funds (their mission, public role, adherence to ethical norms, respect for labour rights, etc.), on the spending of funds and evaluations of the level and method of achieving the goals of each media allocation (programme reports submitted by the funded media, RAK and civil society evaluations that include analysis of produced media contents and any organisational changes affected by public funding, such as changes in the structure and number of employees, adoption of statutes and rulebooks, guarantees of editorial independence, etc.).

III. The institutions in charge of media and communications (primarily the Council of Ministers of BiH and RAK) **need to restart the debate on the status of public media.** Instead of regular annual funding directly from the budgets of government bodies (entity news agencies and cantonal, town and municipal media), funding models need to be established that will enable a greater level of autonomy (e.g. through multi-year funding, financing through special funds and independent procedures). In terms of the three public broadcasting services (BHRT, RTVFBiH and RTRS), it is a matter of urgency to find a more efficient way of collecting and distributing the broadcasting taxes. It is crucial for all public media to additionally secure better guarantees of editorial independence and prevent government institutions from withholding funding because they disagree with the editorial policy or appointment of director/editor.

IV. More attention should be paid to **monitoring media funding.** This means that RAK, the State Aid Council, APIK, and other relevant institutions should monitor how the media that receive public funding work for public interest. Their capacities for performing this function

should also be strengthened. It is necessary to introduce at least occasional financial and performance audits of state aid to the media by state and entity auditors. Furthermore, the civil sector and independent researchers should actively evaluate the results of state aid to the media in the context of good financial management, quality of journalism, media freedoms and pluralism. A methodology needs to be developed to enable evaluating whether the media that received funding fulfilled the required/set goals from the aspect of finance, organisation and media contents, and whether the goals are related to promoting quality journalism, media freedoms and pluralism.

V. The competent ministries or other executive authorities on all administration levels (Ministry of Transport and Communications of BiH, Ministry of Transport and Communications of FBiH/Ministry of Culture and Sports of FBiH, Ministry of Transport and Communications of RS and Ministry of Administration and Local Self-Government of RS, cantonal ministries of similar authorities, as well as mayors of all local self-government units) **should adopt rulebooks/guidelines**, which will then be adopted and implemented by all public bodies and institutions of the given administrative level to develop and implement programmes for allocating public funds to the media. The rulebooks should promote legitimacy and transparency of public funding of the media.

VI. Institutions with authorities related to the media, communications and public administration transparency should advocate for the adoption of the rulebooks and monitor their implementation, including:

- a) APIK, as part of monitoring the implementation of the Anti-Corruption Strategy and Action Plan. First, APIK could recommend the adoption of the rulebook to public bodies and institutions and provide guidelines in terms of the contents of the rulebook, and finally record all cases of adoption of the rulebook. APIK could possibly also take over monitoring of the rulebook implementation, noting that monitoring would require developing APIK's capacities.
- b) Competent executive authorities, the Ombudsman Institution of BiH, Communication Regulatory Agency, and other institutions with competence in these issues can also promote the adoption of the rulebook and take part in supervising its implementation through regular monitoring and/or ordering occasional analyses. It is

necessary to develop the capacities of these bodies for supervising the implementation of the rulebook.

Improvements to the chart of accounts would allow clear and uniform recording of media allocations, both in the procedures of individual institutions and in the potential centralized data collection and disclosure system and system of monitoring these allocations. Centralised data collection and disclosure would definitely facilitate access to information and enable comprehensive evaluations of the allocation results, but their establishment will require overcoming important administrative and resource-related barriers. Recommendations for establishment of a centralised registry are part of other parallel initiatives of the civil sector, which we already mentioned and will not be elaborated any further in this report. Below we will focus on recommendations pertaining to the content of the rulebook for allocating public funds to the media, whose adoption is referred to in recommendations V and VI.

7.2. RECOMMENDATIONS ON THE CONTENT OF GUIDELINES/RULEBOOKS FOR ALLOCATING PUBLIC FUNDS TO THE MEDIA

The rulebook should contain transparency standards, rules for defining the purpose and criteria of funds allocation, and rules regarding the composition and appointment of members of bodies selecting the media to which funds will be allocated. Each of the elements of the rulebook is elaborated below.

Transparency standards:

a) Transparency of recording and disclosure of information on allocated funds:

- **Clearly categorise and define different allocations of funds to the media, and ensure their consistent and uniform recording.** Regular allocations to the media should be clearly distinguished from individual allocations, while separately recording allocations by different types of users – public, private, and non-profit media, and by purpose—for funding basic expenses, procurement of equipment, production of specific media contents, etc.
- **Clearly and distinctly indicate funds that are designated/ allocated to the media within the budget and budget spending report** and in line with the previously determined categorisation.
- **Proactively and regularly disclose information on allocated funds on the website of the public body or institution**(as special content or as part of adopted budgets and budget spending reports, where media allocations should be clearly visible and categorised

in line with the aforementioned guidelines). Additionally, publish the names of the media that received funding in budget spending reports or on the website within special contents on media allocations.

b) Transparency of funds allocation procedure:

Proactively disclose information on procedures of allocating individual assistance to the media, which includes disclosing the public call (where possible) on websites and in official gazettes, clear criteria of allocating funds and method of selecting the media to which funds will be allocated, details on the criteria for ranking applications, information on the composition of bodies evaluating received applications, and finally, selection results and evaluations of all media.

Proactively disclose information on procedures of regular allocations for the public media, which includes disclosing information on the prescribed method of setting the budget, specific procedures for setting the budget for public media and any deviations from prescribed procedures, disclosing any inputs from discussions regarding the public media budgets.

c) Transparency of spending and the impact of allocated funds

Proactively disclose information on the spending of allocated funds on websites of government bodies (including reports on budget spending of public media, financial statements for individual allocations to the media, and financial audit reports), as well as information on achieved results and goals in the financial, programme and organisational sense (programme reports submitted by the media, performance audits carried out by audit offices, independent analyses of the types and quality of media contents in relation to planned goals, reports of RAK and the Press Council of BiH on violations of programme and ethical standards, etc.).

Rules related to goals and criteria for funding media from the public budget:

In terms of regular public media funding directly from the budgets of entity/cantonal/local governments, the adoption of funding rules and criteria should minimise arbitrariness of current authorities and prevent arbitrary withholding of funds or setting of funding amounts. For this reason, the rulebook should include:

- A provision stipulating that the minimum guaranteed amount of direct funding of public media from entity/cantonal/municipal budgets shall be set on a **multi-year basis**, and that the amount shall be either

confirmed or increased in the process of adopting the annual budget of the given government institution.

- A provision stipulating that the amount of budget funds for each public media shall be set on the basis of a **relevant estimation of costs for the media to perform its public function**. The government body should order this analysis for the public media it funds from its budget.
- Regular public media funding should be contingent on meeting the following formal criteria: a) **defined and disclosed**(on their websites) **programme goals of the media** for the future period, that are based on public interest; programme goals should be defined more precisely than the minimum requirements under RAK rules. In future assessments of the operations of the media, the accomplishment of defined programme goals should be monitored by: b) **submitting and disclosing previous performance reports** (including financial, organisational and programme elements) and audit reports (if any exist for the media), as well as by c) **adopting and disclosing formal guarantees of editorial independence** in the media (statutes defining protection of editors and journalists from arbitrary dismissal and including a conscience clause that guarantees the right of journalists to refuse tasks which are not in line with professional ethics and journalistic autonomy).
- The rulebooks of state and entity governments should require the three public broadcasting services (BHRT, RTRS, RTVFBiH) to meet the previously mentioned formal conditions (defined programme goals, disclosure of performance and audit reports, statutory updated in terms of guaranteeing editorial and journalistic autonomy), which will allow the media to demonstrate a minimum of public accountability.
- Considering the fact that future regular funding of the **three public broadcasters** directly from government budgets is not excluded, especially in the case of RTRS because the law on RTRS allows for that possibility, it is necessary for the state and entity governments' rulebooks to define the circumstances in which such funding may be approved. Since direct funding is generally seen as a poor solution that threatens the independence of public broadcasters, the rulebook should reduce this possibility to a temporary measure in the event of extreme

financial difficulties of the public broadcaster, and until a better solution is reached for collection of funds from broadcasting taxes.

b) In regard to individual allocations to the media from the budgets of government bodies, the rulebook should also minimise arbitrariness of current power holders and prevent arbitrary decision-making by defining clear criteria and requirements for allocating funds. Therefore, the rulebooks should include:

- A requirement that individual allocations in principle are planned in advance through developed **aid programmes**, which will be published on the website of the given authority, and define the purpose of these allocations, the basic criteria that the media need to satisfy in order to be able to obtain funds, the method of allocating these funds, the method of selecting the media that will be granted funding and the composition of the selection commission. Each of the aid programmes should be based on transparent procedures and on a public call.
- In regard to the **purpose of funding**, the programme should clearly define the public interest served by the allocation, which should be related to the principles of media freedoms, pluralism, cultural and/or democratic needs of the society. Funding can be targeted to cover regular expenses of the media and/or financing the production of special media contents. In any case, it is necessary to establish **eliminary criteria**, such as transparency of funding and ownership and accountability of public funds users, which is achieved by the media disclosing information on ownership, main sources of funding, and information on their adherence to any RAK/Press Council decisions regarding their contents. It is also necessary to prevent those who are associated with the media through proprietary, financial or personal lines to decide on allocating funding to the media (by appointing alternative members of the commission or exclusion of such media). Other **media selection criteria should be defined as precisely as possible**, in order to limit discretionary decision-making of selection bodies. The criteria should be related to a) the **general characteristics of the media**, which may be **organisational** (e.g. specific number of employees and settled obligations to employees, statute protecting the autonomy of editors and journalists through good protection from arbitrary dismissals and through the conscience clause, etc.), **market-related** (specific impact, audience/readership and share of

total advertising revenues in the market), and **media content-related** (e.g. specific amount of original contents, general-informative nature of contents, demonstrated orientation of the media to public interest, human rights or other democratic principles, reporting on/for specific social groups, programmes in languages of national minorities, etc.). In the case of funding production of specific content, **additional criteria** should be related to the quality of proposed content and their alignment with programme goals. It should be clearly defined why the specific goals and specific criteria were set.

- Elaborate and specify the **method of distributing funds**, i.e. way of setting the amount to be allocated to each media. In relation to the funding of operational costs of the media, the calculation method will have to be based on the number of employees, information on operational costs from previous years and information on the amount and type of content the media produces. In addition, in case the goal of the programme is, for instance, to support media with lower advertising revenues and a smaller audience, coefficients should be used to favor smaller, weaker media.
- In terms of the **method for selecting the media** to which funds will be allocated, the procedures, evaluation method and composition of decision-making bodies should be clearly defined.
- In terms of the **accountability of the media** receiving the funding, the programme should clearly define the **requirement for media to submit periodic reports** on budget spending and achieved results in the programme, organisational, market or other sense.
- Explicitly stipulate that media funding **may not be carried out based on individual decisions and/or without a public call**, nor should funds from budget reserves be used for such allocations. Any allocations of surplus revenues of public institutions and companies should be carried out in a transparent procedure, with a defined aid programme containing the elements described above (goals, criteria, etc.).
- In terms of **individual allocations to the public media**, the conditions in which they may be approved have to be clearly defined. Allocated funds may be intended for covering the operational costs of the public media, however the rulebook should reduce this option only for rare

occasions of unexpected and extreme financial difficulties of the public media. The rulebook should also stipulate that funds meant for funding specific programmes may be allocated to the public media, too, if it is evaluated that they meet the defined criteria of the media funding programme better.

Rules related to the composition of bodies in charge of selecting the media to which public funds will be allocated, i.e. bodies that approve regular allocations to public media:

The rule defining that an **independent expert body** is to be established to make decisions on media funding, that members are to be selected from a public call, where expert qualifications related to the media, communications, democracy and human rights are the dominant criteria. It should also be stipulated that the composition of these bodies should include representatives of different groups, including representatives of journalists' associations. Public disclosure of the results and elaboration of the selection of members of the body based on their professional qualifications should also be provided for. The rulebook should prescribe that political bodies may not independently decide on media funding, but that competent persons from expert services of government bodies are allowed to be members of the decision-making bodies. The rulebook should also identify the bodies in charge of the selection of expert services which should, if possible, comprise competent employees of the body, who are not politically elected officials. Expert bodies whose composition and method of appointment are defined in this way can partially reduce political influence on results of media selection.

In terms of **regular funding of public media** (local and cantonal broadcasters and news agencies), their budget is adopted by a legislative body along with the total budget of the government body, but the application of the aforementioned minimum amount of funding over several years and disabling arbitrary denying of funds would exclude the misuse of this form of funding for the goal of applying political pressure. As noted earlier, the setting of amounts of allocations to the public media should be based on estimations of independent experts on the funds needed for the public media to realise their public function and their programme goals. The selection of these experts should be based on similar principles as in the selection of the expert body (public call, clear criteria in terms of

qualifications and experience in media research and know-how of media operations, norms preventing conflict of interests, disclosure of selection results and elaboration, and professional profiles of selected experts).

The rulebook should define **norms preventing conflict of interest**, by preventing the decision-makers from having direct or indirect interests in the media or any related business entities; it should also prevent candidates who are in a position of public or political authority from taking part. A statement should be drafted containing questions related to possible conflict of interests that all applicants must fill out, sign and submit along with their CV when applying to the public call. The statements of selected candidates should be disclosed along with their professional profiles.

The rulebooks/programmes/guidelines for allocating public funds to the media should be adopted and implemented on all levels of administration. The recommendations we provide here can serve as the foundation for defining the rulebooks/programmes/guidelines. Additional specifications of the rulebooks/programmes/guidelines on all levels of administration should take into account the specific needs of each community and consult the local public in the process of developing the rulebooks.

APIK can start the initiative and dialogue with representatives of different government levels to adopt such joint and separate guidelines, while civil society organisations such as ours can become actively involved in the dialogue and consultations process and assist in the development of these documents.

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