

The Council of the Republic Broadcasting Agency, based on Article 8 paragraph 1 item 9, Article 18 paragraph 8, Article 62 paragraph 2 of the Broadcasting Law (Official Gazette of the Republic of Serbia, nos. 42/02, 97/04, 76/05, 79/05, 62/06 and 85/06) and Articles 56 paragraph 1 of the Statute of the Republic Broadcasting Agency (Official Gazette of the Republic of Serbia, no. 102/2005), hereby adopts the following:

## **REGULATION**

### **ON THE PROCEDURE AND CONDITIONS OF IMPOSING MEASURES AND WITHDRAWING BROADCASTER LICENCE**

#### **I. GENERAL PROVISIONS**

##### **Subject of the Regulation**

###### Article 1

This Regulation shall, in accordance with the law, prescribe the rules of action of the Republic Broadcasting Agency (hereinafter: the Agency) in the procedure of deciding on imposing measures against broadcasters breaching the obligations determined by the Broadcasting Law and the Agency regulations, as well as the rules on the procedure of licence withdrawal in case of occurrence of some of the reasons for termination of licence validity before the expiry of the period for which it was issued, which are prescribed by the provision of Article 61 of the Broadcasting Law.

##### **Subsidiary application of the law**

###### Article 2

Provisions of the Law on General Administrative Procedure ("Official Gazette of FRY" nos. 33/97 and 31/01) shall apply to particular issues of the procedure not regulated by this regulation.

#### **II. ACTING UPON SUBMISSIONS AND COMPLAINTS**

##### **Manner of submission and complaint delivery**

###### Article 3

A submission and complaint shall be delivered in written form (filings).

Submissions shall be delivered directly to the Agency, to the official person in charge of submission receipt, who shall confirm the filing receipt to the submitting party, sent by mail, fax or e-mail.

### **Submission and Complaint Content**

#### Article 4

A submission should contain the following:

1. full name of the broadcaster the submission relates to,
2. day and hour of broadcasting the programme whose content the submission relates to,
3. statements by which personal interests of the submission submitting party or common interests are violated or endangered,
4. name, surname and residence address of the natural person, or the name and registered address of the legal person submitting the submission,
5. signature of the natural person or signature and seal of the authorised person.

A complaint should contain the following:

1. full name of the broadcaster the complaint relates to,
2. statements about the action of the broadcaster the complaint relates to, due to which the submitting party suffers or may suffer damage,
3. name and registered address of the complainant,
4. signature and seal of the authorised person.

### **Preliminary examination of a submission and complaint**

#### Article 5

Immediately after receiving a submission or complaint, the Agency's Technical Service shall determine whether the submission or complaint is complete and comprehensible and whether it may be acted upon.

When the Agency's Technical Service determines that the submitted submission or complaint does not contain the elements prescribed by the provision of Article 4 of this Regulation it shall set a time limit to the submitting party within which that party shall rectify formal shortcomings. The time limit for rectifying the shortcomings may not be shorter than three days.

If the party submitting the submission or complaint fails to rectify the shortcomings within the specified time limit, the Technical Service shall deliver the submission or complaint to the Council for decision making.

When the Agency's Technical Service estimates that it is not possible to determine what the subject of the submission or complaint is, it shall send such submission or complaint to the Council for preliminary statement of opinion, and the Council may decide to return such submission or complaint to the submitting party for clarification, which shall act within 15 days.

When the Agency's Technical Service determines that the submission or complaint is complete and comprehensible, it shall deliver the submission or complaint without delay to the broadcaster for response, which shall respond within 15 days.

### **Procedure of deciding on submissions and complaints**

#### Article 6

After the response and data collection, the Agency's Technical Service shall prepare a report, which it shall submit to the Council.

The report stating that the broadcaster failed to act in accordance with the Law must contain an explanation.

When the Council determines, in deciding on submissions and complaints, that a submission or complaint is well-founded, it shall initiate the procedure for imposing the measures prescribed by the Law and bring criminal or offence charges or initiate appropriate proceedings before the competent state authority.

The Council shall instruct the party submitting the submission for which the Council determined that it is well-founded how it may protect its interest.

When the Council determines, in deciding on submissions and complaints, that a submission or complaint is ill-founded, it shall immediately inform the party submitting the submission or complaint about that in writing.

### **III. PRONOUNCEMENT OF MEASURES AND LICENCE WITHDRAWAL**

#### **Procedure initiation**

#### Article 7

The Agency shall initiate the procedure for the pronouncement of measures on the basis of independent report of the Technical Service containing an explanation and stating that the broadcaster breached the Broadcasting Law and regulations adopted by the Agency.

The Agency shall initiate the procedure for the pronouncement of measures based on the submission unless it determines after the submission receipt and consideration that the submission is ill-founded.

The Agency shall, upon a broadcaster's complaint, initiate the procedure for the pronouncement of measures if it deems, regardless of response of the broadcaster to whose behaviour the complaint relates, that the complaint is well-founded.

The Agency shall initiate the licence withdrawal procedure when one of the reasons for termination of broadcasting licence validity before expiry of the period for which it was issued, prescribed by the provision of Article 61 of the Law, is met.

## **Course of the procedure**

### **Article 8**

After initiating the procedure, the Council shall allow the broadcaster to respond to the report of the Agency's Technical Service stating that the broadcaster breached the Broadcasting Law and the regulations adopted by the Agency.

For the purpose of responding to the Technical Service report and the facts that are the reason for conducting the procedure, a representative of the broadcaster shall be invited to the Council meeting at which there will be discussion about the pronouncement of measures prescribed by the law or adoption of the licence withdrawal decision when one of the reasons for the termination of broadcasting licence validity before expiry of the period for which it was issued, prescribed by the provision of Article 61 of the Law, is met.

The broadcaster may also deliver its response to the Technical Service report in writing before the start of the meeting to which it was invited.

If the duly invited broadcaster's representative fails to present himself/herself at the Council meeting he/she was invited to, the Council shall hold the meeting in the absence of the broadcaster's representative.

## **Decision making**

### **Article 9**

After conducting the procedure, which is based on the principles of objectivity and impartiality, the Council shall make a decision by the required majority of votes.

When the Council determines that the broadcaster breached the Broadcasting Law and the regulations adopted by the Agency, or when it determines that one of the reasons for the termination of broadcasting licence validity before expiry of the period for which it was issued, prescribed by the provision of Article 61 of the Law, is met, it shall adopt a decision by which it will pronounce one of the measures prescribed by the law or a licence withdrawal decision.

The decision should contain the name of the body, decision number and date, introduction, decision text, explanation, instruction on legal remedy, the Council Chairman's signature and the Agency seal.

The decision shall be delivered to the broadcaster via the Agency's delivery service.

## **IV. MEASURES**

### **Types of measures**

#### **Article 10**

The Agency may pronounce a reprimand and a warning against a broadcaster, and may temporarily or permanently withdraw its broadcasting licence.

Notwithstanding this, broadcasters that are not obliged to obtain a broadcasting licence from the Agency may only be pronounced a reprimand and a warning.

### **Reprimand**

#### Article 11

A reprimand shall be pronounced against a broadcaster that breaches for the first time some of the obligations stipulated by the Law or the Agency by-law.

The reprimand shall not be published in the media.

### **Warning**

#### Article 12

A warning shall be pronounced against a broadcaster which:

- 1) regardless of the issued reprimand, breaches again the same or any other obligations and thus continues to act in contravention of the obligations stipulated by the Law or the Agency by-law;
- 2) breaches for the first time some of the obligations stipulated by the Law, but in such a manner that this breach seriously endangers the realisation of the principles of regulating relations in the broadcasting sector;
- 3) breaches some of the requirements included in the broadcasting licence issued.

The decision pronouncing a warning must include the obligation breached by the broadcaster as well as the measures the broadcaster should take in order to rectify the breach.

The warning shall be published in the media and mandatorily in the programme of the broadcaster to which the warning relates.

### **Temporary licence withdrawal**

#### Article 13

Temporary broadcasting licence withdrawal lasting up to 30 days may be pronounced against a broadcaster which, regardless of the reprimand issued:

- continues to fail to fulfil the provisions of the Law or regulations adopted on the basis of it,
- does not meet the requirements stipulated by the broadcasting licence,
- does not act upon the measures for remedying the breaches made, which were set by the Council in the warning issued.

## **Permanent licence withdrawal as a measure in the event of broadcaster obligation breach**

### Article 14

Permanent broadcasting licence withdrawal shall be pronounced against a broadcaster which does not fulfil its obligations and against which a measure of temporary broadcasting licence withdrawal has previously been pronounced at least three times.

## **V. LICENCE WITHDRAWAL**

### **Licence withdrawal due to occurrence of one of the reasons for termination of broadcasting licence validity**

#### Article 15

A broadcaster licence shall be withdrawn in the event of occurrence of some of the reasons for the termination of broadcasting licence validity before expiry of the period for which it was issued, prescribed by the provision of Article 61 of the Law.

## **VI. RECORDING OF MEASURES**

### **Registry of pronounced measures**

#### Article 16

The Agency shall keep a special registry of measures pronounced against broadcasters.

The Agency shall publish the measures pronounced, except for reprimand, on the Agency's official website.

## **VII. LEGAL REMEDIES**

### **Administrative dispute and complaint**

#### Article 17

No appeal shall be allowed against the Council decision on the pronouncement of measures against broadcasters breaching provisions of the law and regulations adopted by the Agency; however, an administrative dispute may be initiated.

The broadcaster whose licence was withdrawn shall be entitled to submit to the Council, within eight days from the decision delivery date, a complaint against the Council decision on licence withdrawal in the event of occurrence of some of the reasons referred to in Article 61 of the Broadcasting Law, which shall suspend the decision execution.

Upon the complaint submission, the Council shall re-examine the decision, against which the complaint was submitted, within the limits of the complaint statements, after which it shall adopt a decision by the required majority of votes.

An administrative dispute may be initiated against the Council decision adopted upon the complaint.

### **Final provision**

#### Article 18

This Regulation shall come into effect as of the day of its publication on the Agency's official website.

Belgrade,  
3 April 2007

Republic Broadcasting Agency  
Council President  
Nenad Cekić, PhD