



**39th EPRA meeting:
Budva – 4 - 6 June 2014**

**Working Group 2
Independence of NRAs:
Key Developments and Current Debates**

Summary of the WG by Content Producer Maida Čulahović

The Working Group on the Independence of NRAs is a yearly working group that will convene once again at the EPRA meeting in Tbilisi. The WG session held at the Budva meeting focused on recent key developments in connection with independence of regulators, whereas the autumn session will explore more practice-oriented aspects of independence.

The first part of the WG focused on the Commission's Public Consultation on Independence of NRAs held in spring 2013. This part started off with the analysis of NRAs' responses to the consultation:

- the responses confirmed that independence is seen as a highly relevant aspect of efficient functioning of regulators and that lack of independence may have a devastating effect on the freedom and pluralism of the media;
- there was a low number of responses from NRAs – only 18 altogether participated in the Consultation, which is surprising having in mind the huge importance of the subject of independence for the existence of regulators;
- the Consultation resulted in the formalization of cooperation through the establishment of ERGA, but the debate on possible options of overcoming the limitations of Article 30 AVMSD was left unanswered.

Lorena Boix Alonso, Head of Converging Media and Content Unit, DG CONNECT, who was one of the panelists, provided a follow up on the Consultation. She stressed that the issue of independence is a very important one for the Commission, and is especially significant for audiovisual regulators because of its importance for the preservation of free and pluralistic media. The establishment of ERGA was a non-legislative result mentioned in the Consultation; whether the Commission will go into the legislative option and change the wording of Article 30 is not yet known. In any case, though the formal obligation of independence may be a good negotiating tool, it alone cannot guarantee actual independence.

It was furthermore pointed out that the work within ERGA may have the capacity to strengthen independence and can help to keep independence high on the policy agenda. Independence and measures to improve it was among the topics proposed for the ERGA annual work programme.

The WG also examined the role that the convergence of regulators may have in strengthening of independence. The experience of converged regulators in the room showed that there are both positive and negative impacts of being convergent on independence.

Part Two explored the Impact of independence on the exercise of regulatory tasks and what can regulators do. Silvia Grundmann, Head of Media Division, and Lejla Dervišagić, Programme Manager at the Media Division, DG of Human Rights and Rule of Law, presented the Council of Europe initiatives concerning the independence of regulators including the regional project "Promoting freedom of

expression and information and freedom of the media in South-East Europe (SEE)” aimed at strengthening the independence of regulators in SEE countries and recent regional events. It was interesting to learn that the conclusions of one of the events directly resulted in a very concrete follow-up, namely that the Albanian Parliament send an official request to the Council of Europe to perform an independent analysis on independence of its regulatory authority.

Furthermore, indicators as defined by the INDIREG study were stressed as a good tool for measuring independence. In the debate with the participants, several aspects were particularly pointed out such as appointment and nomination of members and financial independence, an aspect that either already poses danger or is a potential source of danger in many EPRA members.

Discussing what is it that regulators can do to foster the culture of independence, increasing transparency and the importance of being brave to take difficult decisions in face of opposition were stressed by many participants.

In the third and final part of the WG, Mr. Joan Barata Mir, Principal Adviser at the OSCE Representative on Freedom of the Media Office talked about the OSCE position and actions in the field of independence, stressing the direct correlation between the need to preserve independence and the freedom of the media. He underlined several points upon which it should be particularly insisted:

- the necessity to separate between government policy and regulatory authority;
- that there is a lack of understanding of the non-political nature of regulators’ activities;
- RAs must be independent according to law, but more importantly, they must be *seen* to be independent.

What the participants in the WG also agreed upon is that independence is a daily effort; that threats to independence are not only present in young democracies; even in long-established democracies there are always at least latent attempts to make sure that doors to control of the media are always open.