

**THE INDEPENDENCE AND FUNCTIONING
OF THE AUDIOVISUAL MEDIA
AUTHORITY OF ALBANIA**

**AN ASSESSMENT USING THE INDIREG
METHODOLOGY**

Study requested commissioned by the Council of Europe on request of the Albanian
Parliament

Study team: Kristina Irion, Michele Ledger, Sara Svensson and Erion Fejzulla

October, 2014

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Executive summary

This study carries out an independent assessment of the Audiovisual Media Authority (AMA) of Albania. The scope of the study is to apply the INDIREG methodology to the AMA and provide contextual interpretation of the results with policy recommendations.

The INDIREG methodology offers a scientifically backed methodology to appraise the formal and de facto independence of supervisory authorities in the audiovisual media sector on five different dimensions: (1) Status and powers, (2) Financial autonomy, (3) Autonomy of decision-makers, (4) Knowledge and transparency and (5) accountability.

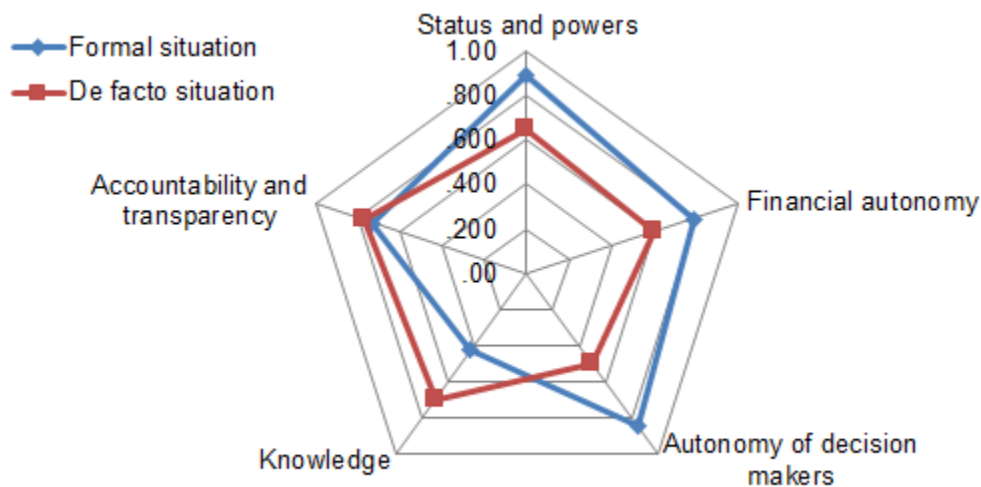
This implementation study on AMA proceeds in three steps:

1. Gathering data on formal and de facto independence of AMA;
2. Applying the INDIREG Ranking Tool to AMA;
3. Deriving attention points and contextual interpretation of the results.

Data gathering took place between August and October 2014, facilitated by the local expert, desk-research covering local laws and public documents as well as media coverage and 17 stakeholder interviews conducted in Tirana. The formal situation is assessed against the 2013 law No. 97/2013 ‘On Audio-visual Media in the Republic of Albania’ (4.3.2013), which established AMA, and applicable by-laws. The de facto situation, on the other hand, is based on the experience of the last 3-5 years, including during AMA’s predecessor, the National Council (*Këshilli Kombëtar I Radios Dhe Televizionit/ KKRT*).

The graphical representation below constitutes the applied Ranking Tool of AMA representing the situation in October 2014. It is important to note that the Ranking Tool is an interim step in the analysis from which attention points are derived for contextual interpretation.

The Ranking Tool applied to AMA



The following attention points were derived from the applied Ranking Tool:

Status and powers dimension

- With the exception of deciding about its internal organisation and human resources, through its constituting law AMA is sufficiently endowed with a status of formal independence and corresponding powers.
- The de facto situation of AMA signals risks of external influence mainly due to indicators that query how the authority (and its predecessor) have used its implementation and enforcement powers.

Financial autonomy dimension

- While being sufficiently stable over time the de facto indicator querying whether AMA's budget is sufficient to carry out its tasks and duties depreciates the de facto situation of AMA's financial autonomy.

Autonomy of decision-makers dimension

- The Ranking Tool signifies highly problematic risk levels of external influence potential on AMA both, at the formal and the de facto situations.
- The formal situation is mainly depreciated due to the appointment politicization that is now codified inside the 2013 law and three de facto indicators compound to significant risks of external influence mainly in relation to the transition from KKRT to AMA.

Knowledge dimension

- The Ranking Tool produces suboptimal outcomes because the law does not stipulate formal education for board and certain levels of professional expertise for senior staff.
- The de facto situation displays concerning risk-levels but mainly due to very moderate perceptions on the qualifications and competences of the AMA board and senior staff.

Accountability and transparency dimension

- The de facto situation points towards scope for improvements in AMA's good governance practices.

Overall, AMA faces two sets of challenges of a very different nature:

Under the first set of challenges, AMA has yet to credibly emerge as the independent regulatory authority for the audiovisual media sector at arm's length from politics and its regulatees. At this moment in time AMA's functioning is hampered until its board is fully operational again. There is a continuing risk that politicized appointments can lastingly damage the perception of AMA being an impartial arbitrator in pursuit of the public interest.

The second set of challenges concern that AMA operates in an overall environment where the culture to respect its independence and legal compliance is not very succinct. The risk of external influence on AMA is correspondingly high. Both KKRT and for the time being AMA did not fully succeed to assert itself in the sector it regulates as impartial and effective independent regulatory body.

Both sets of challenges, the de facto independence of AMA and the environment in which it operates influence each other and weight down perceptions of its regulatory capabilities and efficient functioning.

The following policy recommendations were derived as a result of the contextual interpretation of these attention points. Policy recommendations are differentiated according to whether they are addressed to the Albanian legislator or to AMA.

Policy recommendation addressed to the Albanian legislator

<i>Status and powers</i>	<ol style="list-style-type: none">1. Amend article 15 of Law no. 97/2013 on the structure and organisation chart of AMA so as to grant organisational autonomy to AMA that does not depend on the approval of the Albanian Parliament or the government.2. Consider if certain powers strictly related to regulating the transmission of electronic signals by pure electronic communications operators (e.g. terrestrial broadcast network operators, administration of spectrum used for broadcasting, etc).that are now with AMA could be transferred to the AKEP.¹3. The active fight against broadcasting piracy could also be removed from AMA's responsibilities while it could help executing civil courts decisions finding the infringement of broadcasting rights by its regulatees.
<i>Autonomy of decision-makers</i>	<ol style="list-style-type: none">4. The nomination procedure should strictly favour candidacies based on their merit in terms of

¹ However, AMA should remain responsible to grant licenses for broadcasting content providers to access digital broadcasting multiplex capacity.

	<p>professional expertise over political support by either the majority or the opposition.</p> <p>5. The overall composition of the board in terms of professional background and representativeness of the society (e.g. gender) should be better recognised in the legal nomination procedure.</p> <p>6. Consider if the secretary general of AMA could become an ex officio member of the board.</p> <p>7. The majority and the opposition forces in the parliament should cooperate more effectively to proceed strictly in line with the legally foreseen nomination and appointment procedure for board members.</p> <p>8. The majority and the opposition should strive to jointly promote a candidate for the Chair who receives wide societal support across political delineations.</p> <p>9. The nomination process for the AMA chair, the deputy-chair and members now should give preference to candidates which receive support from all political camps and in society.</p>
Knowledge	<p>10. Amend the law (e.g. Article 15) to extend requirements for knowledge to senior staff members.</p> <p>11. Amend the law (Article 8) to add requirements on qualifications to be eligible candidate to become a board member.</p>

Policy recommendation addressed to AMA

Status and powers	<p>a. In order to demonstrate and monitor impartial decision-making AMA should build and publish on its website a repository of all its decisions with motivations that is organised to reflect subject-areas and the application of AMA code powers.</p> <p>b. On internal organisation, make sure to appoint as a Secretary-General someone with a high level of professional expertise and moral integrity.</p> <p>c. Make sure the Complaints Council is appointed as quickly as possible and operates in an efficient and transparent manner.</p> <p>d. To clearly mark the transition from KKRT to AMA, AMA should communicate better to the public its new role and powers. There should be consistency in its external representation, for instance, it should change its name outside the main office entrance.</p>
Financial autonomy	<p>e. AMA should publish notices and decisions regarding fees levied from industry on its website and other official information channels.</p> <p>f. AMA is advised to adopt a by-law formulating a graduated response so that sanctions for not paying</p>

	<p>fees are announced and mounted corresponding to the law.</p> <p>g. Two years after introducing its strategy, AMA should reassess its financial autonomy from improving its fee structure, collection and enforcement strategy, possibly with the help of external independent experts.</p>
<i>Autonomy of decision-makers</i>	<p>h. AMA should adopt organizational measures against intimidation and threats from third parties and issue behavioral advice how to react when intimidated or threatened.</p> <p>i. AMA should make sure to officially report and document threats received and to ensure that follow-up action is taken (e.g. report to the police and where appropriate filing with the prosecution service).</p>
<i>Knowledge</i>	<p>j. The share of senior staff with technical understanding should be increased. This can be addressed through giving priority to this qualification as the senior staff level and conducting short-term intensive training courses for Board members and staff alike.</p> <p>k. Where appropriate AMA should open vacancies for mid- and advanced carrier professionals that is adequately recognised in the rank and salary specifications</p> <p>l. AMA should work more actively to demonstrate how it ensures that staff is hired on grounds of competency and that existing staff receive trainings as required.</p> <p>m. AMA should evaluate the option of hiring university graduates based on streamlined meritocratic tests.</p> <p>n. AMA should engage in exchanges of staff from other European audiovisual media regulators.</p>
<i>Accountability and transparency</i>	<p>o. The regulator should focus on providing written summaries of the outcome of consultation.</p> <p>p. All annual reports and decisions with motivations should be uploaded and searchable on the website.</p> <p>q. Market data information should be provided by AMA on its website.</p> <p>r. AMA could consider publishing draft annual plans for consultation.</p> <p>s. AMA should publish all notices, events, board minutes, the list of tariffs, and sanction applied in case of non-compliance.</p>

Table of Content

INTRODUCTION	9
PART 1 – ASSESSING INDEPENDENT REGULATORY AUTHORITIES IN THE AUDIOVISUAL MEDIA SECTOR WITH THE INDIREG METHODOLOGY	10
1.1. The INDIREG study’s conceptual approach to independence	11
1.2. The INDIREG methodology	11
1.3. Implementation	13
PART 2 – APPLYING THE RANKING TOOL TO THE AUDIOVISUAL MEDIA AUTHORITY OF ALBANIA	14
2.1. The Audiovisual Media Authority in brief	14
2.2. The Ranking Tool Applied	17
2.3. Justification of indicators.....	23
2.3.1. Status and powers dimension	23
2.3.2. Financial autonomy dimension	25
2.3.3. Autonomy of decision-makers dimension	27
2.3.4. Knowledge dimension	29
2.3.5. Transparency and accountability dimension	31
2.4. Issues not captured by the Ranking Tool	33
2.4.1. Status and Power dimension	33
2.4.2. Autonomy of decision-makers dimension	33
2.4.3. Knowledge dimension	34
2.4.4. Transparency and accountability dimension	34
2.4.5. Difference between de facto and perceived situation.....	34
PART 3 – INTERPRETATION OF THE RANKING TOOL LEADING TO POLICY RECOMMENDATIONS	35
3.1. Attention points derived from the applied Ranking Tool	35
3.1.1. Status and powers dimension	35
3.1.2. Financial autonomy dimension.....	35
3.1.3. Autonomy of decision-makers dimension	35
3.1.4. Knowledge dimension	35
3.1.5. Accountability and transparency dimension.....	36
3.2. Interpretation of attention points in the national context.....	36
3.2.1. Status and powers	36
3.2.3. Financial autonomy	39
3.2.3. Autonomy of decision-makers	41
3.2.4. Knowledge	45
3.2.5. Accountability and transparency	47
CONCLUSION.....	49
ANNEX A: TABLES JUSTIFYING ASSESSMENT OF FORMAL DIMENSION	52
ANNEX B: LIST OF INTERVIEWS	86
ANNEX C: THE RANKING TOOL.....	87

Introduction

This study is a follow-up initiative to the regional conference ‘Indicators for Independence of Media Regulatory Bodies’ held in Tirana in March 2014, organized as part of the Council of Europe project ‘Promoting freedom of expression and information and freedom of the media in South-East Europe’. The conference covered among others a methodology derived from a 2011 study conducted on behalf of the European Commission (the INDIREG study).²

Following the Council of Europe regional conference, Albanian key actors converged around the opinion that it would be beneficial to request a study that applies the INDIREG methodology to the Audiovisual Media Authority (AMA) in Albania. In April 2014, Ilir Meta, the Speaker of Parliament, formally requested the Council of Europe General Secretary, to assist in commissioning such a report.

The experts for this study were selected from the original research team of the INDIREG study and were subsequently tasked by the Council of Europe Tirana Office to carry out an independent assessment of AMA in tandem with a local expert. The scope of the study is to apply the INDIREG methodology to the AMA and provide contextual interpretation of the results and including recommendations. Our judgments, however, cannot be attributed to the authors of the INDIREG study or the Council of Europe.

This report is structured as follows: Part 1 provides a concise introduction to the INDIREG methodology that is necessary to understand its actual application to an independent regulatory authority in the audiovisual media sector. Part 2 then applies the Ranking Tool to AMA and provides justifications for contested indicators in particular. Part 3 derives attention points from the Ranking Tool and then evaluates these in the light of the facts and circumstances surrounding the legislative history and inception of AMA, leading up to a set of policy recommendations to AMA and the legislator.

² Hans Bredow Institute for Media Research/Interdisciplinary Centre for Law & ICT (ICRI), Katholieke Universiteit Leuven/Center for Media and Communication Studies (CMCS), Central European University/Cullen International/Perspective Associates (eds., 2011): INDIREG. Indicators for independence and efficient functioning of audiovisual media services regulatory bodies for the purpose of enforcing the rules in the AVMS Directive. Study conducted on behalf of the European Commission. Final Report. February 2011. Available at www.indireg.eu.

Part 1 – Assessing independent regulatory authorities in the audiovisual media sector with the INDIREG methodology

Across regulatory domains the function of independence for better regulatory outcomes is a complex process:

[F]or independence to lead to better policy outcomes, a complex causal chain needs to operate, leading from statutory provisions granting independence to behavioral patterns demonstrating independence, to policy decisions, and, ultimately, to policy outcomes.³

However, different to other regulatory domains featuring independent regulatory bodies the audiovisual media sector displays two aspects that are specific:

- ‘1. the objective of regulation in the media sector to guarantee media freedoms; and
2. the specific and at times sensitive relationship between the media sector and elected as well as non-elected politicians’ (i.e. the media as ‘fourth estate’).⁴

Throughout Europe, independent supervisory authorities have virtually become the natural institutional form for regulatory governance in the audiovisual media sector.⁵ The Audiovisual Media Services (AVMS) Directive calls for independent regulatory bodies in the EU member states⁶ and the Council of Europe adopted a specific recommendation on this issue (Rec (2000)23)⁷ that was reinforced with a 2008 declaration⁸.

This section introduces the INDIREG study and methodology and how this study proceeded in applying the INDIREG methodology to the AMA.

³ Hanretty, C, and Koop, C. (2012). “Shall the Law Set Them Free: The Formal and Actual Independence of Regulatory Agencies”, *Regulation and Governance*, 2012, p. 195.

⁴ Irion, K., and Ledger, M., ‘Measuring independence: Approaches, limitations and a new ranking tool’, in: W. Schulz, P. Valcke, and K. Irion, eds., *The Independence of the Media and Its Regulatory Agencies. Shedding new light on formal and actual independence against the national context*, 139-165 (Bristol: Intellect Publ, 2014), p. 2f.

⁵ Irion, K., and Radu, R. (2014). ‘Delegation to Independent Regulatory Authorities in the Media Sector: A Paradigm Shift through the Lens of Regulatory Theory’ in: W. Schulz, P. Valcke, and K. Irion, eds., *The Independence of the Media and Its Regulatory Agencies. Shedding new light on formal and actual independence against the national context*, 15-53 (Bristol: Intellect Publ), p. 17.

⁶ European Parliament and the Council of the European Union (2010), Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), Official Journal of the European Union of 15.4.2010 L 95/1, Article 30.

⁷ Council of Europe, Recommendation (Rec (2000)23) of the Committee of Ministers to the Member States on the independence and functions of regulatory authorities for the broadcasting sector.

⁸ Council of Europe, Declaration of the Committee of Ministers of 26 March 2008 on the independence and functions of regulatory authorities for the broadcasting sector.

1.1. The INDIREG study's conceptual approach to independence

The INDIREG study undertook to identify key characteristics for a functioning 'independent regulatory body' as referred to in the Audiovisual Media Services (AVMS) Directive and formulating criteria with which these characteristics could be measured. Recognising that independence 'is a multi-faceted concept, the interpretation of which depends heavily on context' the INDIREG study adopts as a functional working definition:

A regulator is independent if it has within the governance structure a position that ensures that the regulator performs the decision-making process meeting the normative requirements for which the independence of the regulator is called for.⁹

As highlighted in the final report of the INDIREG study, no regulatory agency can be truly independent from its environment, since it always has to dynamically interact with elected officials and other stakeholders as well as to correspond to democratic legitimacy and accountability requirements. Independence is:

'rather a necessity for a regulator to keep an equal distance from all possible interests in order to balance them impartially and aim at achieving long-term results benefitting all stakeholders as contrary to serving short term interests of various groups'.¹⁰

The INDIREG study delivers a review of the extensive literature on the emergence and spread of independent regulatory bodies and what is meant by 'independence'.¹¹ The knowledge on what constitutes independence of regulatory bodies from regional best practices and research informed the INDIREG methodology that is briefly summarized below.

1.2. The INDIREG methodology

The INDIREG study offers a scientifically backed methodology to appraise the independence of supervisory authorities in the audiovisual media sector. It is grounded in the understanding that regulatory independence should be measured separately for formal and de facto independence, while preserving the complimentary relationship between both sides.¹² Because of the limitations to measure a quality like independence, this methodology inverts the logic by measuring the risk of influence by external players rather than the level of independence of the regulators.¹³

In its entirety the methodology is documented in the INDIREG study and the following summary aims to ground an understanding for the purpose of this study. Applying the

⁹ Hans Bredow et.al. , "INDIREG Final Report", p. 46.

¹⁰ Lamanuskas, T. (2006): The key features of independence of national telecommunication regulatory authorities and securing them in law. In: *Law* 61, p. 79.

¹¹ Hans Bredow et.al. , "INDIREG Final Report", pp. 12ff.

¹² Irion, K., and Ledger, M., p. 151.

¹³ Ibid.

INDIREG methodology to a specific media supervisory authority proceeds in three steps:

1. Gathering data on formal and de facto independence;
2. Applying the INDIREG Ranking Tool;
3. Deriving attention points and contextual interpretation of the results.

The preliminary assessment in step two is pre-structured by the INDIREG Ranking Tool that translates regional best practices and research into two sets of indicators:

- Indicators of formal independence refer to legal provisions and the institutional design of the independent regulatory body as prescribed by law; and
- Indicators pertaining to de facto independence are a combination of compliance indicators and additional safeguards against and actual risks of undue external influence.

The INDIREG study provides justifications for every formal and de facto indicators that was included in the Ranking Tool.¹⁴ All indicators are weighted to reflect their relative influence on the independence of a media regulatory authority. Also the indicators' weighting is made transparent.¹⁵

In a nutshell, the Ranking Tool is a new composite index that operationalizes indicators on regulatory independence in the audiovisual media sector from regional best practices and research on five different dimensions¹⁶:

- **Status & Powers:** the regulator needs to have sufficient independence attributed through its legal status and competences; if any other body or person other than a court that can overrule decisions and or give instructions the autonomy decreases, and it must have competences to issue binding decisions that go beyond recommendations.
- **Financial Autonomy:** the regulator must be equipped with sufficient financial resources; otherwise there are risks for both its independence and efficient functioning.
- **Autonomy of Decision-makers:** it is necessary that the nomination and appointment procedures are constructed in a way that prevent a considerable structural bias in decision-making.
- **Knowledge:** the body should be equipped with sufficient human resources and adequate expertise to perform its duties.
- **Transparency & Accountability:** the body must have a minimum obligation of transparency and be accountable for its decisions that balances its relative autonomy.

¹⁴ Hans Bredow et.al. , “INDIREG Final Report”, pp.370f.

¹⁵ Ibid.

¹⁶ The definitions of the dimensions below are extracted from Hans Bredow et.al. , “INDIREG Final Report”, pp. 7

Once the questionnaire of the INDIREG Ranking Tool is filled in the results are visualized in a graphical representation (a so called spider-web chart), where each axis (i.e. dimension) displays a potential sphere of influence with the exception of accountability and transparency.

The organization of indicators into different dimensions is also an advantage in the third stage when attention points are derived from the filled-in Ranking Tool. Such attention points can be that the application of the Ranking Tool shows that there is a potential risk of external influence with regards to the formal and/or de facto independence on certain dimensions. The attention points undergo a context sensitive interpretation to obtain an understanding whether in the light of all circumstances they could indeed present a risk for external influence on the independent regulatory authority or are balanced by other contextual factors.

1.3 Implementation

This study applies the INDIREG methodology to AMA in Albania and captures the situation up until October 2014. Subsequent developments are no longer appraised.

In order to obtain factual and contextual data its collection was carried out in three stages.

Corresponding to step 1 of the INDIREG methodology, a local expert (Erion Fejzulla) without ties to any of the stakeholders was given the task to collect all relevant information on the legislative set-up of the AMA necessary for filling in the formal situation of the Ranking Tool. The local expert, updated the information that had been collected on Albania for the original INDIREG study, available in Annex 1 of this report, and provided detailed background information on legislative acts, historical background of AMA, AMA's operations so far and changes in the AMA leadership and staffing, relevant local media coverage and reactions of the international community. He supplied a list of key stakeholders from the following categories: the national audiovisual regulatory authority, parliament, ministry, public broadcaster, commercial broadcasters, cable operators, media employee representatives, independent media experts and international organizations.

Next, the local expert established contacts with key representatives of these stakeholders in order to schedule the interviews. Between September 24 and 27, two consultants of the study team (Michele Ledger and Sara Svensson) carried out on-site interviews in Tirana. In total, 17 stakeholders were interviewed, out of which one took place later via skype due to conflicting schedules. Annex B lists the interviewees according to their positions and the time and place of the interviews.

All of them had the opportunity to pre-fill the Ranking Tool before the interview took place, which enhanced the opportunity to effectively utilize the scheduled interview times along identified contentious issues. Ultimately, the interviews aimed at obtaining information and perceptions on how the formal and de facto indicators should be

applied to AMA. They also provided important information and perceptions that aided the contextual interpretation in Part 3 of this study. The study does not attribute opinions to specific interviewees, and opinions were not taken at face value but triangulated with information from other sources.

In a last stage the consultants consolidated a first draft of the Ranking Tool as applied to AMA. They applied their own judgment and provided justifications for those indicators where the spectrum of stakeholders' opinions significantly varied. Relevant information that was not internalized by the Ranking Tool was preserved in a separate section. The draft formal Ranking Tool was published on the INDIREG website on October 1, 2014, and the draft de facto Ranking Tool was published on this website on October 17, 2014.¹⁷ All interviewees received an individual email inviting them to comment and to extend information about the Ranking Tool to their networks. As of October 25, 2014, no comments were received.

Progressing to analytical and interpretative stage of the study, the consultants derived attention points from the applied Ranking Tool that received contextual interpretations in the light of the facts and circumstances surrounding the legislative history and inception of AMA.

Part 2 – Applying the Ranking Tool to the Audiovisual Media Authority of Albania

2.1. The Audiovisual Media Authority in brief

AMA has its legal base in the 2013 law “On Audio-visual Media in the Republic of Albania”¹⁸ The law was designed to comply with the EU’s AVMS Directive¹⁹ and benefited from the input of local and international experts. AMA’s tasks broadly fall into two categories, the first being authorization and licensing of operators and their supervision, and the second being general monitoring and reporting on the audiovisual media content. It covers audiovisual content (TV and TV-like on demand services), transmission and distribution aspects of audiovisual content, and administers the spectrum dedicated to broadcasting. AMA’s budget in 2014 is approximately 800,000 EUR (112 millions ALL) and it employed a total number of 49 staff.

AMA is the successor of the National Council of Radio and Television (*Këshilli Kombëtar I Radios Dhe Televizionit*/KKRT), which was founded in 1998.²⁰ For the purpose of this study we concluded that there is an institutional continuity between AMA and its predecessor due to it keeping the personnel and physical location of KKRT along with key components of institutional design and scope of tasks. In the

¹⁷ See <http://www.indireg.eu/?p=470>

¹⁸ Law no. 97/2013, dated 04.03.2013 “On Audio-visual Media in the Republic of Albania”.

¹⁹ European Parliament and the Council of the European Union (2010).

²⁰ Law No. 8410 “On public and private radio and television in the Republic of Albania”. 30.09.1998
Law no. 97/2013, dated 04.03.2013 “On Audio-visual Media in the Republic of Albania”.

case of Board members, this continuity is clearly phrased in the law, which states that Board members “continue to stay in the duty even after the entry into force of this law, up to the end of the term defined in the appointment mandate.”²¹ As AMA was created, there were however two vacancies in the Board.

On the other hand, the situation for by-laws was less clear. The new law requires AMA to revise the implementing legislation or draft new by-laws. It has succeeded to approve seven new bylaws. In practice, in those areas where decisions on new by-laws have not yet been taken, the by-laws of KKRT were taken over as valid until new ones will be drafted and approved. An example of this are the 2006 “Rules for the prevention of conflict of interest and administration of the National Council for Radio and Television”, which aim at guaranteeing an independent and transparent decision-making in the best possible interest of the radio-television operators and increasing their trust in the regulator’s impartiality.

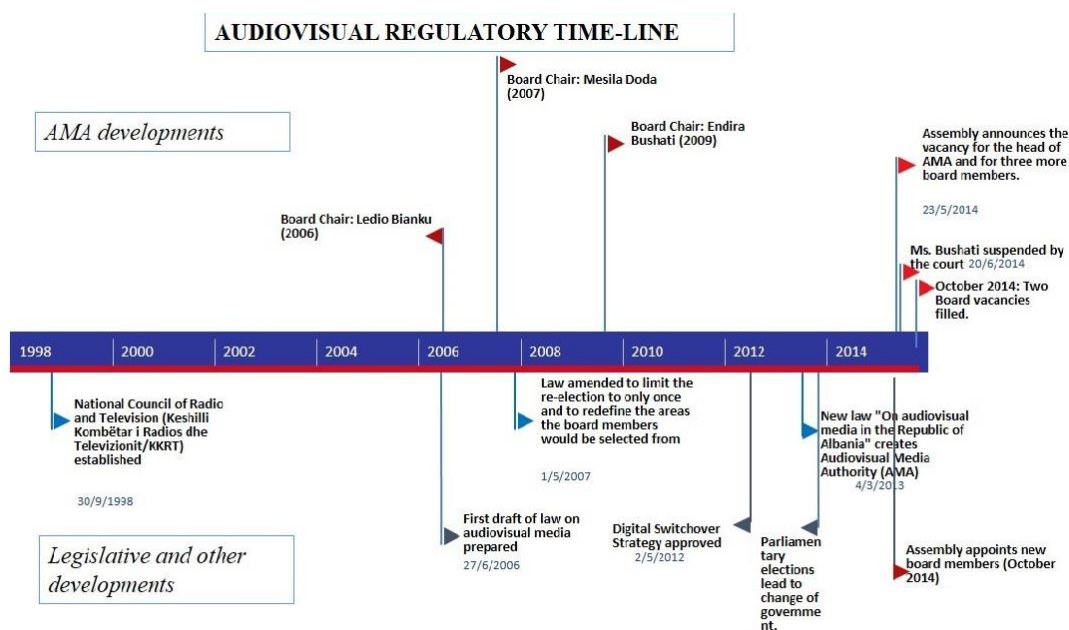
After the entry into force of the new law on audiovisual media authority (no. 97/2013) and recent amendments to the law on the prevention of conflict of interest (no. 9367 of 2006) AMA has initiated a process of drafting a new Code of Conduct as required by point 3 of article 7 of the new law.²² As of the time of preparing this report there is no draft yet. Until the new Code of Conduct will be approved by AMA, the old Rules will continue to remain in force regardless of its compatibility with the requirements of the new law and the amended law on the prevention of conflict of interest. In any case, the regulation of the latter prevail.

Figure 1 summarizes key events that influenced AMA and its predecessor.

²¹ Law no. 97/2013, dated 04.03.2013 “On Audio-visual Media in the Republic of Albania”, article 134.

²² The law required the Code of Conduct to have been drafted and approved within 6 months of the entry into force of the new law. However, the absence of the quorum in the AMA’s board has made it impossible to approve it.

Figure 1: Audiovisual regulatory timeline



There are 12 other sublegal acts that have been drafted but not enacted, among them *Rules* for the provisions of conditional access services, criteria and regulatory measures for the joint usage of ART (public service radio) transmission infrastructure, procedures of renewal of audio broadcasting licenses, and monitoring the frequency spectrum.

More substantial developments have been hindered by difficulties in appointing personnel. Three board seats were vacant since 2013, and when the Chair was dismissed by the Assembly in May 2014, and subsequently suspended by the Court in June 2014, AMA lacked the legal quorum²³, necessary to be fully functional. The legal quorum was reached again in October 2014, when the Assembly selected two new board members supported by the party in power bringing the total number of board members to five. As of October 31, there is one vacancy for a board member who should be supported by the opposition and unresolved issue around the Chair of AMA that may lead to a new appointment.

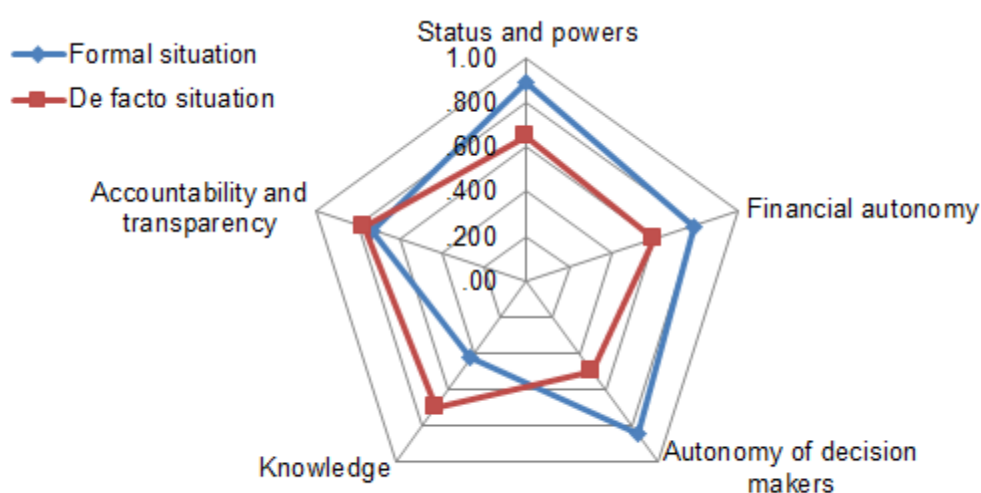
As AMA has regained its legal quorum, the material key challenges ahead are to meet the analogue switch-off date in June 2015 and to assert and effectuate its regulatory influence in the market.

²³ Law no. 97/2013, dated 04.03.2013 "On Audio-visual Media in the Republic of Albania", Article 13(1).

2.2. The Ranking Tool Applied

The graph below constitutes the applied Ranking Tool of AMA, the supervisory body for audiovisual media regulation in Albania, representing the situation in October 2014. It is important to note that the Ranking Tool is an interim step in the analysis from which attention points are derived for interpretation in Part 3. The complete filled in Ranking Tool is in Annex C.

Figure 2: The Ranking Tool applied to AMA



	Formal situation	De facto situation
Status and powers	0.890	0.648
Financial autonomy	0.790	0.600
Autonomy of decision makers	0.850	0.500
Knowledge	0.430	0.700
Accountability and transparency	0.730	0.770

The graphical representation of the Ranking Tool should be interpreted as follows: For the dimensions of status and powers, financial autonomy, autonomy of decision-makers and knowledge, the further the position of the point is outwards along the relevant axis, the more the regulator can resist external influence. The graphical representation of the de facto situation should not be seen as simply mirroring the formal situation, but as drawing attention to potential risks to exert external influence on the independent regulatory body. The reading is different for the accountability and transparency

dimension in the sense that ‘the fuller the web’, the more effective transparency and accountability mechanisms are in place.²⁴

In order to proceed directly to the interpretation of the Ranking Tool and the derivation of attention points go, to Part 3.

Table 1 lists all indicators and answer options that were selected when applying the Ranking Tool to AMA. The highlighted indicators are those that emerged as contested after data gathering and for which we provide justifications in the section below.

²⁴ For more on interpretation of the Ranking Tool, see instructions in the online version from which this paragraph was extracted: < http://www.indireg.eu/?page_id=329>.

Table 1 - Ranking Tool answers to indicators by dimension - Shaded areas are justified in section 2.3.

Status & Powers			
Formal Dimension	Assessment	De Facto Dimension	Assessment
What is the legal structure of the regulatory body?	<i>A separate legal entity/autonomous body</i>	Has the act on the status of the regulatory body been modified in a way that has reduced its tasks and powers?	<i>No</i>
How is independence of the regulatory body guaranteed?	<i>Independence is recognized in an act of parliament</i>	Has the governing law of the regulatory body been modified to influence a particular case/conflict?	<i>No</i>
What type of regulatory powers does the regulatory body have?	<i>Policy implementing powers and third party decision-making powers</i>	Have the formally granted powers (policy implementing powers and third party decision making powers,excluding sanctions) been used	<i>Yes, but not for all powers and in all circumstances</i>
Are these regulatory powers sufficiently defined in the law?	<i>Yes</i>	How does the regulatory body supervise whether the rules are correctly applied by the regulatees?	<i>Through monitoring according to a set strategy</i>
Does the regulatory body have supervision powers?	<i>Yes</i>	Has the regulatory body received instructions by a body other than a court in individual cases/decisions or in relation to its policy implementing powers in the last 5 years?	<i>No</i>
Does the regulatory body have information collection powers towards regulatees (eg. regarding quotas)?	<i>Yes</i>	Have the decisions of the regulatory body been overturned by a body other than a court/administrative tribunal in the last 5 years?	<i>No</i>
Can the regulatory body be instructed (other than by a court) in individual cases/decisions?	<i>No</i>	Has the regulatory body taken adequate measures in case of material breach by an AVMS/TVwF provider?	<i>No</i>
Can the regulatory body's decisions be overturned (other than by a court/tribunal)?	<i>No</i>	Has the regulatory body taken adequate sanctions in case of continued breach by an AVMS/TVwF provider?	<i>No</i>
What type of enforcement powers does the regulatory body have?	<i>Availability of a range of proportional enforcement</i>	In case of several breaches by different AVMS/TVwF providers: Have even-handed/comparable measures been taken against all providers?	<i>Not applicable</i>

Does the regulatory body have sufficient legal power to decide on internal organisation and human resources?	<i>No</i>	Does the regulatory body effectively decide on internal organisation and human resources?	<i>No</i>
		Does the regulatory body have a sufficient number of staff to fulfill its tasks and duties?	<i>Yes</i>
Financial autonomy			
Formal Dimension	Assessment	De Facto Dimension	Assessment
How is the budget of the regulatory body determined?	<i>By the parliament with involvement of the regulatory body</i>	Is the regulatory body's budget sufficient to carry out its tasks and duties?	<i>No</i>
Does the law clearly specify the budget setting and approval procedure?	<i>Yes</i>	Is the regulatory body's budget sufficiently stable over time?	<i>Yes</i>
What are the sources of income of the regulatory body?	<i>Mixed fees (industry and government funding)</i>	Does the regulatory body have sufficient autonomy to decide for which tasks it spends its budget?	<i>Yes</i>
Does the law clearly specify the source of funding?	<i>Yes</i>	Is the regulatory body under pressure to compensate a lack of stable funding from the state or from the market, by imposing fines or requesting ad-hoc financial contributions from the state?	<i>No</i>
Autonomy of decision makers			
Formal Dimension	Assessment	De Facto Dimension	Assessment
What is the nature of the highest decision making organ of the regulatory body?	<i>A board</i>	Are political majorities or political power structures reflected in the composition of the highest decision making organ?	<i>Yes</i>
Who has a decisive say in nomination/appointment of the regulatory body's highest decision making organ?	<i>Parliament and political parties</i>	Have there been cases where the appointer failed to appoint the nominated candidate?	<i>Not applicable</i>
What is the term of office of the chairman/board members?	<i>A fixed term of office of a certain duration (above the election cycle)</i>	Have board members/chairman resigned before their term of office due to political conflicts?	<i>No</i>
Does the term of office coincide with the election cycle?	<i>Not specified</i>	Have one or more board members been dismissed for non-objective grounds in the past 5 years?	<i>Yes</i>
Does the law foresee that board members are appointed at different points in time (staggered appointment)?	<i>Yes</i>	Has the entire board been dismissed or otherwise replaced before the end of term in the last 5 years?	<i>No</i>

What is the situation regarding renewals of board members/chairman?	<i>Renewal not possible/limited to one or two instances</i>		
Board members	<i>Cannot be composed of members of government/parliament/industry</i>		
Incompatibility extended to relatives?	<i>Yes</i>		
Requirement to act in an independent capacity?	<i>Yes</i>		
Are there rules preventing conflicts of interest of chairman/board members during their term of office?	<i>Yes</i>		
Is there a period during which former board members are limited to work for the regulatees (so-called cooling-off period)?	<i>Yes</i>		
How can the chairman / individual board members be dismissed?	<i>Dismissal possible only for objective grounds listed in the law (no discretion possible)</i>		
Dismissal of the entire board	<i>Not possible to dismiss the entire board</i>		
Knowledge			
Formal Dimension	Assessment	De Facto Dimension	Assessment
Are requirements for professional expertise (i.e. knowledge/experience) specified in the law? For board members/chairman?	<i>Yes</i>	Do board members/chairman have adequate qualifications and professional expertise to fulfill the duties of the regulatory body?	<i>Yes, a majority</i>
Are requirements for professional expertise specified in the law? For senior staff?	<i>No</i>	Does senior staff have adequate qualifications and professional expertise to fulfill the duties of the regulatory body?	<i>Yes, a majority</i>
Are requirements for qualifications (e.g. education, diploma requirements) specified in the law? For board members/chairman?	<i>No</i>	Does the regulatory body seek external advice when needed?	<i>Yes</i>
Are requirements for qualifications specified in the law? For senior staff?	<i>No</i>	Does the regulatory body cooperate with other national/foreign regulators in charge of audio-visual media regulation?	<i>Yes</i>
Does the law foresee that the regulatory body can seek external advice?	<i>Yes</i>		
Is the regulatory body legally obliged to cooperate with other national or foreign	<i>Yes</i>		

regulators and does it have the required mandate to do so?			
Accountability and transparency			
Formal Dimension	Assessment	De Facto Dimension	Assessment
Does the law specify that the regulator's decisions need to be published?	<i>Yes</i>	Does the regulatory body publish its decisions, together with motivations?	<i>Yes, but only some are published</i>
Does the law specify that the regulator's decisions need to be motivated?	<i>No</i>	Where are the decisions published?	<i>On the website (and other official channels)</i>
Is the regulatory body required by law to organise consultations?	<i>Yes, in all cases, which have a direct or indirect impact on more than one stakeholder</i>	Does the regulatory body organize consultations?	<i>Yes, in all cases, which have a direct or indirect impact on more than one stakeholder</i>
Is the regulatory body subject to a reporting obligation and is it specified in law?	<i>Yes, the reporting obligation is specified in the law and is limited to public bodies only.</i>	Does the regulatory body organize the consultations as open or closed consultations?	<i>Open consultations</i>
Does the law specify a mechanism of ex-post control by a democratically elected body?	<i>Yes</i>	Does the regulatory body explain the extent to which responses are taken into account in final decisions?	<i>Yes</i>
Is an appeal procedure against the decisions of the regulatory body foreseen in the law?	<i>Yes</i>	Does the regulatory body explain the extent to which responses are taken into account in final decisions?	<i>Yes</i>
What are the accepted grounds for appeal?	<i>Errors of fact and errors of law</i>	Does the regulatory body publish periodical reports on its activities?	<i>Yes</i>
Is external auditing of the financial situation foreseen in the law?	<i>No</i>	Has the regulatory body been assessed/controlled by a democratically elected body in the last five years?	<i>Yes</i>
		Have there been cases where the report has been refused in the last 5 years?	<i>No</i>
		Have the decisions of the regulatory body been overturned by a court/administrative tribunal in a significant number of cases?	<i>Yes</i>
		Is the regulatory body subject to periodic external financial auditing?	<i>No</i>
		Has the auditing revealed serious malpractices?	<i>No</i>

2.3. Justification of indicators

The following provides our justifications on those indicators that were not unambiguous or emerged as contested after data gathering. Such situations arise primarily but not exclusively with regards to de facto indicators, because the assessment of the formal independence could be based on the legal situation. In order to revisit the full implementation of the formal Ranking Tool please refer to the tables in Annex A.

In the end, we also highlight aspects that are not captured by the Ranking Tool. Certain of these elements are then discussed in Part 3, which outlines attention points that have been taken into account in the development of the policy recommendations.

2.3.1. Status and powers dimension

Formal situation: Organizational autonomy (internal organization and human resources)

In the applied Ranking Tool, the answer is “no”, since AMA cannot decide about its own organization, but must have its organizational structure approved by the parliament.²⁵ In this case, the parliament, through its Assembly’s Committee of Education and Means of Public Information could this approval in order to exert external influence on AMA.

De facto situation: Legislative modifications that reduced mandate and powers

In the applied Ranking Tool, the answer is “no”, i.e. no legislative modifications that have reduced mandate and powers have been carried out. The law regulating AMA was only adopted in March 2013, and since then there have not been any legislative modifications. Two issues should be pointed out. First, we consider that the law creating AMA is formally speaking an improvement to the previous legal endowment of mandate and powers. We have not investigated the de facto consequences of any of the many amendments to the previous 1998 law that took place between that time and the formulation and entry into force of the new law. Second, while no modification to the 2013 law happened, we note that a draft amendment, the so-called amendment (134) has been discussed in the parliament but was later withdrawn. According to this amendment (134) the entire board that is a legacy of KKRT would have been dismissed in order to build AMA from the scratch.

De facto situation: Actual use of the formally granted powers

In the Ranking Tool the alternatives to the question on the actual use of formally granted powers are “Yes, for all types of powers and in all instances”, “Yes, but not for all types of powers or in all instances” and “No”. The answer to this in the applied Ranking Tool is “Yes, but not for all types of powers or in all instances”. Even though formally AMA

²⁵ Law no. 97/2013, “On Audio-visual Media in the Republic of Albania”, (4.3.2013), article 15.

has a number of tools at its disposal, it has had difficulties using them due to budgetary shortages and its personnel structure, partially in combination with lack of adequate skill sets (see the dimensions ‘Financial Autonomy’ and ‘Knowledge’). This is valid for both the period before and after the new law, i.e. both for the KKRT and AMA. After AMA was created, the situation deteriorated due to the suspension of the Chair and the difficulties to procedurally progress on filling in vacant positions in the Board.

De facto situation: Adequate use of enforcement powers in cases of a material breach and continued breach / Even-handed/comparable measures concerning all regulatees

These three indicators related to the adequate enforcement and the even-handedness towards regulatees have turned out to be quite contentious. Opinions varied on whether AMA (and the KKRT before it) had adequately used its enforcement powers. Some operators think that this has not been the case, and have taken action in court to seek to redress this while others do not share this opinion.

The answer in the applied Ranking Tool is ‘no’ to the first two questions (on adequate use of material and continued breach, respective,) and ‘not applicable’ to the question of even-handedness.

Both KKRT and for the time being AMA did not fully succeed to assert itself in the sector it regulates. There is a fairly extensive perception that ‘AMA has not done enough’. At the same time the regulator operates in an overall environment where legal compliance is not very succinct either and enforcement can turn into an arm’s race at all levels. In the words of an AMA employee: “We say stop, but they don’t stop!”

In a similar vein, the KKRT was accused of not treating operators in a comparable manner. There are perceptions that private TV channels are treated better than the public service broadcasters, and that some private channels are getting better treatment due to ties with the government than others. While political power has changed after the national elections, also with AMA stakeholder perceptions do not find impartial decision-making. In particular the broadcasting spectrum allocations are contested as unfair and have resulted in a surge of court procedures that are threatening to derail the digital switch-over process.

We note two issues: AMA is yet too young in operation to credibly have built its own reputation and its public perception is clearly under the perception of the regulatory legacy in the audiovisual media sector. There is a wide perception that oversight and enforcement in the audiovisual sector have not been effective and that KKRT as well as AMA recently have not been acting in an even-handed manner towards all the operators. This perception is hurting the authority and capability of AMA, both to function independently and efficiently.

De facto situation: Effective autonomy regarding internal organization and human resources

In the applied Ranking Tool, the answer to the query on whether AMA possesses the effective autonomy regarding internal organization and human resources is ‘no’. Following the deficit in the formal situation regarding this factor, it is not surprising that AMA has difficulties effectively and independently to make decisions regarding its internal organization and human resources. The current structure was approved by the parliament in 2008, but the suggested revisions following the creation of AMA in 2013 have not yet been approved by parliament.

De facto situation: Sufficient number of staff to fulfil tasks and duties

In the applied Ranking Tool, we answered ‘yes’ to the question whether AMA has sufficient number of staff to fulfil its tasks and duties. While many but by no means all interviewees pointed to a shortage in staff, it is the opinion of the assessment team that the overall headcount at the agency is comparable with many other similar agencies. Problems rather lie in the composition and level of competencies (see section 2.3.4. on Knowledge).

2.3.2. Financial autonomy dimension

Formal situation: Sources of income of the regulatory body

In the applied Ranking Tool we selected ‘mixed fees’ as the appropriate answer on the sources of income of the regulatory body. The other alternatives are ‘Fees levied from industry’ and ‘government funding only’. The 2013 law²⁶ provides that most of AMA’s income is generated from market players but that in exceptional circumstances, it can seek funding from the state to carry out special tasks. This is the reason why we say that the body is funded by mixed fees, even though under ordinary circumstances AMA is supposed to be financially independent from the state.

Formal situation: Specification of the budget setting and approval procedure in the law

In the applied Ranking Tool, on the indicator whether the budget setting and approval procedure is sufficiently clear in the law the answer is ‘yes’. AMA drafts and approves its own budget and submits it to the Assembly²⁷. When AMA requires state budget, just like any other institution, it needs to follow the rules of the state budget (law on State Budget and its bylaws, enacted by the Ministry of Finance). As noted in the indicator on income above, state budget should only be sought for exceptional purposes. This solution in which the operational budget of AMA that consists of fees levied from the industry is not tied to the approval of the requested state budget as a whole is mindful

²⁶ Law no. 97/2013, “On Audio-visual Media in the Republic of Albania”, (4.3.2013), article 24, para 1 and 2.

²⁷ Law no. 97/2013, “On Audio-visual Media in the Republic of Albania”, (4.3.2013), article 19, para 13.

to limit external influence on the regulator's independence. However, since the digitalization process does constitute an exceptional situation, this procedure needs to be kept under close watch.

De facto situation: Sufficiency of budget

We assessed that the budget of AMA is not sufficient and consequently entered 'no' as an answer option in the Ranking Tool. Despite the increase in 2014, there is a widespread perception that AMA's budget is not sufficient to carry out its tasks. It was made clear to us during our interviews that equipment and software is missing. Even if AMA's headcount is proportionate to the size of the country (see the indicator 'Sufficiency of staff' under Status and Power), there is for instance the perception that the budget does not suffice to carry out field inspections.

We note that following the 2013 law, AMA received more regulatory tasks. AMA is now responsible to supervise on-demand audiovisual services and has a leading role to play in administering the digital switch-over process in Albania.

In certain instances, AMA does not receive the fees it would be entitled to meaning that the regulator could have a higher income from fees levied from industry. Under the previous law, no sanctions were foreseen if an operator did not pay its licence fee but this has now been resolved under the new law.²⁸

De facto situation: Autonomy to decide about its own budget

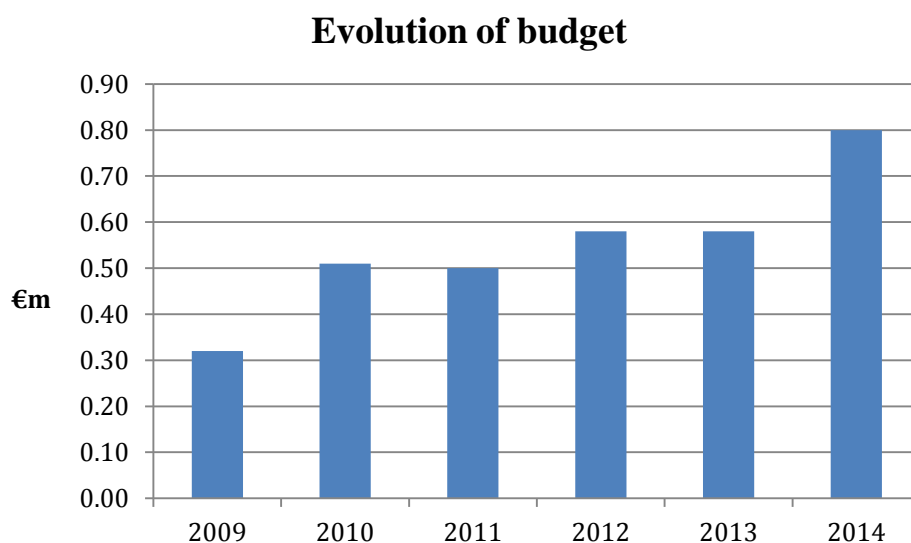
In the applied Ranking Tool, the answer is 'yes'. The requirement of the 2013 Law (article 15) that AMA's internal organization should be approved by the parliament has the potential to give the parliament power over how the budget is spread across sectors or activities. Despite this, most stakeholders do not see any current problems with AMA's autonomy to decide about its own budget, and this category has therefore received a positive evaluation.

De facto situation: Stability of budget over time

Although some stakeholders indicated that the budget could potentially be reduced over time due to shifts on the market, the experience over the past five years show that this has not happened in practice (see figure below). There is sufficient stability over time, even if at a moderate level, and the answer to the indicator here is therefore 'yes'.

²⁸ See Law no. 97/2013, dated 04.03.2013 "On Audio-visual Media in the Republic of Albania", Articles 68(d) and 69(3).

Figure 4



De facto situation: Pressure to compensate stable funding from the state or the market

In the applied Ranking Tool, the answer is ‘no’. Most interviewees stated that there is not a pressure to compensate the low budget by approaching the state or increase fees on the market, and we converged with this opinion, despite a few interviewees stating that implicitly such pressure exists. It should be noted that AMA would be entitled to receive more fees from the regulatees as explained earlier but this is not to be interpreted as a pressure to compensate.

2.3.3. Autonomy of decision-makers dimension

Formal situation: Who has a decisive say in nomination/appointment of the regulatory body's highest decision making organ?

From the menu of answer options of the Ranking Tool, we selected the option ‘parliament and political parties’, since they are the ones with real influence in that they have the power to control three seats each on the AMA Board. This alternative was preferred over for instance ‘Mix between parliament, government, civil society and professional associations’ since the government, civil society and professional associations do not have decisive influence at the stage of nomination.

Formal situation: Incompatibility extended to relatives

In the applied Ranking Tool, the answer is ‘yes’. Since AMA has not yet adopted a Code of Conduct, the regulator still operates with the Code of Conduct of KKRT (approved with decision nr. 456, date 11.05.2006 of the KKRT). This specifies that the rules on incompatibilities are extended to relatives.

Formal situation: Dismissal of the board

In the applied Ranking Tool, the answer is ‘no’, since all these reasons are linked to individual board members, and since there is no mention that the entire board members can be dismissed all at once (for instance because the annual report is not approved). Under the previous law, the entire board could be dismissed if the annual report was not approved for two consecutive years. This provision was removed from the 2013 law.

Formal situation: Cooling-off periods for former board members

In the applied Ranking Tool, the answer is ‘yes’. Unlike the previous law, the 2013 Law no longer includes a period during which former board members are limited to work for the regulatees (so called cooling-off period). It should be noted, however, that the KKRT’s Rules on the prevention of conflict of interest, which are still applied as long as the new Code of Conduct for AMA is not yet approved provides for a cooling-off period for board members who have left the regulator. For a year following their end of term former members of the board cannot:

- defend the interests of a company dealing with audiovisual production, publications, press, advertising or telecommunication; and
- be members in managing organs of companies with a focus on radio-television activities.²⁹

We would like to flag that without a legal requirement to include such a provision, the enforcement and future of such a provision is uncertain. For the moment, the indicator is still positive.

De facto situation: Reflection of political majorities in the composition of the highest decision making organ?

In the applied Ranking Tool, the answer is ‘yes’. The 2013 law introduces an appointment procedure whereby three candidates must have the support of the majority in Parliament while three must have the support of the opposition.³⁰ When AMA was constituted, five of the seven board members were taken over from KKRT (the remaining seats were vacant), keeping the political support of the party that had supported their original election. The chair, is appointed through a majority vote in Parliament and the vice chair is chosen by the board members from the opposition. Given this situation, it is obviously very difficult to argue that political majorities and power structures are not reflected in the composition of the board. Therefore we note that there is a political power-sharing arrangement between the majority and the

²⁹ See point 1 of article 18 of the KKRT’s Decision no. 456, dated 11.05.2006 “Rules for the prevention of the conflict of interest of the members and administration of the National Council for Radio and Television”.

³⁰ Law no. 97/2013, “On Audio-visual Media in the Republic of Albania”, (4.3.2013), article 9.

opposition in the parliament which is not in line with best practices of the INDIREG study.³¹

De facto situation: Failure to appoint nominated candidates

In the applied Ranking Tool, the answer is ‘not applicable’, so that this question does not count in the Ranking Tool. The current problem is not that the appointer has failed to appoint the nominated candidate, but rather, that the Assembly’s Committee of Education and Means of Public Information could not proceed with nominating candidates who receive support by the opposition.

De facto situation: Resignation of board members due to political conflict

In the applied Ranking Tool, the answer to this question is ‘no’. However, in connection with parliamentary debates on nominations for the AMA board in autumn 2013 there was one resignation from a post. The Deputy Chair of the Commission, Mr. Sami Neza, resigned as Deputy Chair in order that the Board leadership reflects the political landscape. However, he was asked to stay as a Deputy Chair and since he did not resign from the board, we have decided to interpret this as a ‘no’.

De facto situation: Dismissal of board members for non-objective grounds in the past 5 years?

In the applied Ranking Tool, the answer is ‘yes’. There have been several lines of argumentation against the tenure of the dismissed and also suspended Chair of the Board, Mrs. Endira Bushati. The first were disputes around the lengths of her mandate as board member/Chair, the second a proposed but then withdrawn legal amendment (134) that would have installed an entirely new Board of AMA and the third that a court suspended her on grounds of incompetence. While the former Chair was removed on formal grounds the collective evidence points to post-electoral vulnerabilities (see below).

2.3.4. Knowledge dimension

Formal situation: Legal requirements for qualifications for board members

In the applied Ranking Tool, the answer is ‘no’. The law does not explicitly state that the Chairman or board members need to have a specific educational background. However, whereas the requirements contained in the previous law only required that members of the Board be "personalities" (known figures) in certain areas, the new law shifts the focus to the professional experience of the members of the board by requiring ten 10 years of experience within one or several out of the twelve listed fields. This is in line with Council of Europe Recommendation 23(2000), which states that regulatory authorities should include experts in the areas that fall within their competence, but

³¹ Hans Bredow et.al. , “INDIREG Final Report”, p. 361.

acknowledges that different traditions between countries make narrowing down difficult.

Formal situation: Legal requirements for professional expertise or qualifications for senior staff

In the applied Ranking Tool, the answer is ‘no’. This requirement for professional expertise is not extended to senior staff members, and there is no requirement to have a specific qualification (i.e. university degrees). The law also does not specify the areas of professional expertise from which senior staff should be selected.

De facto situation: Adequacy of qualifications and professional expertise of board members/chairman

In the applied Ranking Tool, the answer is “yes, a majority”. Since the Ranking Tool differentiates between “yes, all”, “yes, a majority” and “No”, this was the statement seemingly closest to the truth.

The CVs of current Board members (taking into account that three positions are vacant) show that they have substantial experience within various related fields. The now suspended Chairwoman has worked as a lecturer at the Faculty of Law of the University of Tirana since 2000, and has worked as a lawyer, legal expert and counsel at several central institutions of the country. Another board member has 22 years of experience in the ICT sector, having worked for several public and private institutions. Two other board members have legal training and another two are journalists by training.

However, these competences did not in the eyes of the stakeholders translate in credibility that the professional expertise is adequate. There seems to be a near-consensus around the perception that many board members lack competence, even though the assessment differs between if ‘a majority has qualification and professional expertise’ or if only a minority has that. It should be emphasized here that the information we gathered from our interviews is probably not sufficient to confirm outright that AMA de facto lacks professional competence.

It should therefore be emphasized that the perception of incompetence partly derives from different opinions on what areas are de facto relevant for AMA work. As stated by one of the interviewees: “The Board does not have the required knowledge. Just because you are formally a lawyer, a journalist or an economist that does not mean that you have clear ideas.” On the other hand, other interviewees ask for more legal competence on the board, others want to see journalists better represented, whereas yet others find journalists, especially from the written press the least qualified to work with complicated technical matters.

Adequacy of qualifications and professional expertise of senior staff to fulfill the duties of the regulatory body

In the applied Ranking Tool, the answer is “yes, a majority”. Since the Ranking Tool differentiates between “yes, all”, “yes, a majority” and “No”, this statement is the reflection of the perceptions from the stakeholders.

The same concerns that apply to the Board members are partially present for staff members as well. The answer “yes, a majority” was therefore chosen. Again, it should be emphasized here that the information we gathered from our interviews is probably not sufficient to confirm outright that AMA de facto lacks professional competence, but that there is a perception of insufficient knowledge.

2.3.5. Transparency and accountability dimension

Formal situation: Reporting obligation of the regulatory body

In the applied Ranking Tool, the answer is ‘yes, but the reporting obligation is specified in the law but is limited to public bodies only’. According to art 28 of the 2013 law, AMA must submit an annual report to the Assembly no later than by March 31 of each year on its activity and on developments in the area of broadcasting and how the obligations deriving from the law are respected by the public and private networks. The report is submitted to the Commission for Education and Public Information Means and to the plenary sitting. Hence, there is a reporting obligation, but this reporting obligation is limited to public bodies only.

De facto situation: Publication of decisions by the body with motivations

In the applied Ranking Tool, the answer is ‘yes, but only some are published’. Only two annual reports are published on the website and motivations rarely feature. For instance, decisions on operators are published through a title only, and by-laws are published (in-line with Albanian practice) without any accompanying memorandum such as an explanatory memorandum.

De facto situation: Organization of consultations

In the applied Ranking Tool, the answer is ‘yes, open consultations. Table 2 illustrates the number of consultations launched by the regulator in the last five years. We see that in 2013 four consultation were conducted and in 2014, so far only two consultations were organised also due to the AMA board not meeting its legal quorum for the time being. However, despite AMA having organised several consultations already, only very few regulatees took part in it.

Table 2: Consultations of KKRT and AMA

Year	Number	Area
2014	2	<ul style="list-style-type: none">• Broadcasting Code• Regulation on Advertising
2013	4	<ul style="list-style-type: none">• Inspection/monitoring procedures of operators activity• Regulation on licensing digital networks based on beauty contest procedures• Regulation on Program numbering Plan for digital platforms• Regulation on Conditional Access.
2012	1	<ul style="list-style-type: none">• Implementation of the switchover strategy
2011	0	
2010	1	<ul style="list-style-type: none">• Round table on digital TV

De facto situation: Rejection of annual report

While the answer in the applied Ranking Tool is ‘no’, it should be noted that the 2013 was disapproved through overall negative appraisal, while not formally rejected.

De facto situation: Overturning decisions of the regulatory body in a significant number of cases

In the applied Ranking Tool, the answer is ‘yes’. On the appeals brought against the regulator’s decisions, there have been quite a few rulings in recent years which overturned KKRT’s and AMA’s decisions. This is normal practice in other countries and also for decisions stemming from other regulators, so there is nothing abnormal with this situation per se.

However, some of the key decisions of the regulator, which relate to the digital switch-over process, have been challenged in court. A new regulation imposing a must carry obligation as well as procedure and decision through which the multiplex operators have been chosen were overturned in the first instance court and are pending appeal. The latter is causing a very unwanted delay in the whole process of the digital switch-over. Taken together, this has led us to answering ‘yes’ to this question.

2.4 Issues not captured by the Ranking Tool

Most of the key aspects linked to independence and effective functioning are captured by the five dimensions of the Ranking Tool. However, there are issues that are not internalized in the Ranking Tool that would have merited inclusion in the case of AMA. This section lists those in order to prepare for the contextualized discussion in Part 3.

2.4.1. Status and Power dimension

2.4.1.4. Redesign of the agency

Applying the Ranking Tool is more difficult in the context of fundamental legislative reform which results in the establishment of a new supervisory body. In the formal dimension, the Ranking Tool does not take into account whether such fundamental changes have taken place. Further, on the de facto side it does not include whether these changes were carried in order to influence which actors should steer or staff the agency and how, in a manner benevolent or not to independent functioning.

2.4.2. Autonomy of decision-makers dimension

2.4.2.1. Verbal or physical abuse of staff and Board members

The INDIREG methodology does not foresee cases where board members or members of staff are threatened, which would constitute a severe pressure to act in a non-autonomous capacity. In the case of AMA, it was reported that there had been at least two cases where staff had been physically abused and threatened by external actors.

2.4.2.2. Support by a political party during election compromises subsequent perceived integrity and independence of a Board member

The Ranking Tool operates on an assumption of causality that is concerned with whether links to external players (dependence on a category of actors) subsequently affect behavior/participation in the Board. It does not deal with reversed causality, i.e. appointment to the Board creating bonds of dependency with the party supporting the appointment. In the case of AMA, there are indications that some individuals do not seek appointment to the Board out of fear of being associated with the political party that supported their nomination and appointments.

2.4.2.3. Excessive use of courts to influence the agency

While the possibility to challenge and appeal decisions are important for the sake of judicial security, excessive use of this resource by the regulatees can threaten AMA's capacity to withstand pressure.

2.4.2.4. De facto situation: Failure to appoint nominated candidates

The Ranking Tool does not differentiate which stage of the nomination fails. In the case of AMA, civil society and professions have been forthcoming in supplying names, but

in some cases final nominations by the Assembly's Committee of Education and Means of Public Information have not been agreed upon.

2.4.2.5. Autonomy of decision-makers: Staff promotions, demotions and lay-offs

The Ranking Tool does not address the extent of internal staff reorganizations, and whether promotions, demotions and lay-offs are perceived to have political motivations.

2.4.3. Knowledge dimension

2.4.3.1. Distribution of required competences

The Ranking Tool inquires about whether Board and staff members are competent, but does not specifically ask for the aggregate level including the right balance of different professions and types of staff members. While this was partially taken into account in the justification of contested indicators (see above), a separate indicator on this would in the Albanian case probably have led to a heavier emphasis on deficits in the knowledge dimension. We also noted that AMA vacancy notices are usually looking for very early career professionals with only two years of professional experience.

2.4.4. Transparency and accountability dimension

2.4.4.1. Quality of transparency mechanisms and consultation processes

This cluster of indicators focus on whether open consultations take place, and how much is made transparent of the decision-making process. It does not capture instances where stakeholders refuse to take part in consultations or attendance is low for reasons that could be a lack of a participatory culture or the use of other, apparently more successful channels to influence regulatory policy.

The Ranking Tool does not take into account the amount and quality of the information. Some interviews expressed that the situation in terms of this is not ideal, and that not enough information is published on the structure of the media market, on the number of operators, their market share etc.

2.4.5. Difference between *de facto* and perceived situation

The Ranking Tool differs between the formal and the *de facto* situation, and is primarily intended to be used for self-assessment. When applied externally it is clear that for a number of indicators it is difficult to assess the 'true' *de facto* situation, without going through a thorough audit or court procedure. What can easily be established, however, is when perceptions of malpractices are present, and that these perceptions in turn threaten the ability of an agency to act in an independent and effective manner. See the discussion in Part 3 for further on this.

PART 3 - Interpretation of the Ranking Tool leading to policy recommendations

This section derives attention points from the outcome of the Ranking Tool and then lets these attention points undergo a context sensitive interpretation to obtain an understanding whether in the light of all circumstances they could indeed present a risk for external influence on the independent regulatory authority or are balanced by other contextual factors.

3.1. Attention points derived from the applied Ranking Tool

3.1.1. Status and powers dimension

On the dimension of status and powers, the Ranking Tool signals that the formal situation of AMA does not pose significant risks of external influence. With the exception of deciding about its internal organisation and human resources, through its constituting law, AMA is sufficiently endowed with a status of formal independence and corresponding powers.

The de facto situation of AMA as captured by the Ranking Tool is not sufficiently extended mainly due to indicators that query how the authority (and its predecessor) have used its implementation and enforcement powers. This points to issues with AMA's effective functioning which is taken forward as an attention point that requires further contextual interpretation.

3.1.2. Financial autonomy dimension

While being sufficiently stable over time the de facto indicator querying whether AMA's budget is sufficient to carry out its tasks and duties depreciates the de facto situation of AMA's financial autonomy. This poses a risk of external influence and an attention point that requires contextual interpretation.

3.1.3. Autonomy of decision-makers dimension

On the dimension of autonomy of decision-makers, the Ranking Tool signifies highly problematic risk levels of external influence potential on AMA both, at the formal and the de facto situations. The formal situation is mainly depreciated due to the appointment politicization that is now codified inside the 2013 law and three de facto indicators compound to significant risks of external influence mainly in relation to the transition from KKRT to AMA. In its entirety, the autonomy of decision makers is an attention point that requires contextual interpretation.

3.1.4. Knowledge dimension

On the dimension of knowledge, the Ranking Tool produces suboptimal outcomes because the law does not stipulate formal education for board and certain levels of professional expertise for senior staff. Especially the latter may reduce AMA leveraging professional knowledge and expertise in its regulatory practice. The de facto situation

displays concerning risk-levels but mainly due to very moderate perceptions on the qualifications and competences of the AMA board and senior staff. Formal and de facto indicators on the knowledge dimension are taken up as an attention point that requires contextual interpretation.

3.1.5. Accountability and transparency dimension

Different to the other dimensions, accountability and transparency has to be interpreted that ‘the fuller the web’, the more effective transparency and accountability mechanisms are in place. The Ranking Tool, in the formal situation, did not show significant retraction from the best-case scenario. But the de facto situation points towards scope for improvements in AMA’s good governance practices that will be tackled as an attention point and undergo contextual interpretation.

3.2. Interpretation of attention points in the national context

The attention points above resulting from applying the Ranking Tool to AMA require a context-sensitive interpretation that helps to explain whether the regulator’s resistance against external influences is really endangered by taking into account all facts and circumstances surrounding the legislative setting and inception of AMA. In the following we produce this enriched interpretation of attention points before concluding that an attention point indeed presents a risk and offer recommendations how to address the issue at hand.

3.2.1. Status and powers

Formal situation

Law 97/2013 on Audio-visual media in the Republic of Albania constituting AMA endows the regulator with a sufficient status of formal independence and corresponding powers compliant with European best practices and the INDIREG indicators in the dimension status and powers. The only exception is that AMA cannot decide about its internal organisation and human resources but instead it has to make a proposal to the Albanian Parliament which can then approve AMA’s internal organization and human resources or not.³² Due to the stalemate with the Board appointments, AMA has not yet received approval for its internal organization.

This particular arrangement contradicts the organizational autonomy of an independent regulator and opens an avenue for undue external influence.³³ Taken together with the little financial leeway AMA commands it cannot even through its internal organization leverage resources to a specific objective without external approval. Consequently, we recommend that AMA should be given the power to decide about its internal

³² Law no. 97/2013, “On Audio-visual Media in the Republic of Albania”, (4.3.2013), article 15.

³³ See Explanatory Memorandum of Recommendation (2000)23 of the Council of Europe; Hans Bredow et.al. , “INDIREG Final Report”, p. 377.

organization without the approval of parliament. Efficiency should rather be monitored via regular auditing than by parliamentary oversight.

In particular, this lack of organizational autonomy may contribute to the issues with the distribution of required competences for the staff and the possibility to seek and attract new staff with advanced professional experiences in technical disciplines for example. In turn, the option to extend AMA's organizational autonomy to its internal organisation and human resources can, after a reasonable period of time, positively influence the perception of the knowledge the regulator effectively commands at staff level.

On the more operational side, AMA needs to ensure that it nominates as secretary general someone with a high level of professional expertise and moral integrity, in line with the wording and spirit of the law. Politics has no role to play in this procedure and it would be a good opportunity to make sure that the secretary general is appointed on merit only, given the important role he/she will have play in ensuring the transition between the KRRT and the new organization.

It is also important that the complaint council is appointed as soon as possible.

Both these steps are important for the credibility of the new institution and will serve to foster trust and confidence in it. To clearly mark the transition between KKRT and AMA, AMA should make sure that the legacy regulator no longer exists and publicize the important new powers and any change in the internal organization, and in particular the appointment process of the secretary general and of the council of complaints.

Policy recommendation (addressed to the Albanian legislator):

1. Amend article 15 of Law no. 97/2013 on the structure and organisation chart of AMA so as to grant organisational autonomy to AMA that does not depend on the approval of the Albanian Parliament or the government.

De facto situation

During the assessment of the use of implementation and enforcement powers it became apparent that in stakeholders' perceptions, the effective functioning of KKRT, the predecessor that operated until April 2013, compounds with that of AMA. At the same time, the institutional continuity between KKRT and AMA in staff, location, regulatory practice and by-laws is significant enough in order to interpret the attention point concerning AMA's effective functioning when it uses its implementation and enforcement powers.

Regarding the indicators capturing different facets of AMA's implementation and enforcement powers there is no consensus among stakeholders around whether AMA is adequately using its enforcement powers and on whether it is treating its various regulatees in a comparable and fair manner. There are two regulatory areas at the core

of the controversy over the regulator's effective functioning and impartial decision-making: First, combating piracy of broadcasting content by other operators in the Albanian market; and second, licensing of multiplex capacity in the course of the digital switch-over process in Albania. We recommend to clarify the regulatory responsibility to actively combat piracy of broadcasting content in order to resolve the componential overlaps between AMA and other authorities but also to consider models to protect broadcasting rights in other countries.³⁴

With regards to the digital switch-over and the administration of spectrum dedicated to broadcasting we recommend re-distributing competencies between AKEP and AMA following strictly the distinction between electronic carrier and content provider. This may correspond better to the technical expertise of the respective authorities, distribute the authorizations to access broadcasting spectrum between two sector-specific regulatory bodies³⁵ and buttress the digital switch-over process in Albania.

However, with only one year of existence, AMA is very young still which limits its ability to assert its regulatory function in the audiovisual media sector of Albania. Moreover, the difficult transition from KKRT to AMA that is covered in more detail below is to blame for AMA's board not commanding the necessary legal quorum for a significant period³⁶ and thus significantly incapacitating the regulator. It is also important to recognise that AMA's regulatory impact is hampered in an environment where, on the one hand, regulatees only selectively abide by the law, sometimes ignoring the regulator's decisions, and, on the other hand, seek to leverage political clientelism or turn to judiciary for challenging the regulator. While under the law, AMA cannot be instructed by other bodies on how to decide, or have not had its decisions overturned, recent reported instances of threats and violence against some of its staff and board members shows that there is a considerable amount of external pressure on the regulator.

In sum, the contextual assessment of the de facto situation concludes that at this moment in time AMA's ability to deliver impartial regulation is hampered until its board is fully operational again and the continuing risk that appointment politicization can lastingly damage the perception of AMA being an impartial arbitrator pursuing the public interest.

³⁴ Policing infringements of broadcasting rights is not commonly in the competences of the audiovisual media regulatory authority. There is moreover a role for the right-holders who should initiate civil law proceedings and claim damages from infringers in the courts.

³⁵ E.g. the German model according to which the licence to operate a digital multiplex in the electromagnetic spectrum dedicated to broadcasting is granted by the regulator for electronic communications (BNetzA) whereas the allocation of a certain number of slots on the digital multiplex (must-carry) are under the supervision of the audiovisual media regulatory authorities of the German federal states (*Bundesländer*).

³⁶ Law no. 97/2013, dated 04.03.2013 "On Audio-visual Media in the Republic of Albania", Article 13(1).

Policy recommendations (addressed to the Albanian legislator):

2. Consider if certain powers strictly related to regulating the transmission of electronic signals by pure electronic communications operators (e.g. terrestrial broadcast network operators, administration of spectrum used for broadcasting, etc) that are now with AMA could be transferred to the AKEP.³⁷
3. The active fight against broadcasting piracy could also be removed from AMA's responsibilities while it could help executing civil courts decisions finding the infringement of broadcasting rights by its regulatees.

Policy recommendation (addressed to AMA):

- a) In order to demonstrate and monitor impartial decision-making AMA should build and publish on its website a repository of all its decisions with motivations that is organised to reflect subject-areas and the application of AMA code powers.
- b) On internal organisation, make sure to appoint as a Secretary-General someone with a high level of professional expertise and moral integrity.
- c) Make sure the Complaints Council is appointed as quickly as possible and operates in an efficient and transparent manner.
- d) To clearly mark the transition from KKRT to AMA, AMA should communicate better to the public its new role and powers. There should be consistency in its external representation, for instance, it should change its name outside the main office entrance.

3.2.3 *Financial autonomy*

From a formal point of view, Law No. 97/2013 buttresses well AMA's financial autonomy because it establishes one track for parliamentary approval of the operational budget that is generated from fees levied from industry. Should AMA request state budget this would be dealt with under a different track pursuant to the law on State Budget and its bylaws. For example, for the years 2014 and 2015 AMA requested a special budget from the state because of the need to implement the digital switch-over strategy. AMA has requested extra budget to the ministry of finance to cover the public information campaign, but the approval has not yet been granted.

Regarding the de facto situation, while we acknowledge that AMA's budget has been sufficiently stable over time, it is with a budget of 800,000 EUR (112 million ALL) in 2014 at the very low range compared to other audiovisual media authorities of similar size in Europe.³⁸ Overall, AMA appears to be structurally underfunded meaning that AMA has financial autonomy without any financial flexibility that would enable it to

³⁷ However, AMA should remain responsible to grant licenses for broadcasting content providers to access digital broadcasting multiplex capacity.

³⁸ See Hans Bredow et.al. , "INDIREG Final Report", p. 214.

earmark budget for commissioning expertise, data collection and market research, site visits and many other activities.

To some extent this could be remedied by effectuating AMA's fee collection powers so that it no longer foregoes revenues from fees that are levied from regulatees it was entitled to. We note that law no. 97/2013 has improved sanctions for such cases that should support this objective:

- Article 68(d) of the law foresees that that licence and/or authorization becomes invalid when the applicant does not pay the licence fees within 90 days from the moment when it gets officially notified of its approval;
- Article 69/3 of the law foresees that AMA has the right to remove the licence and/or authorization when the operator does not pay the licence fee for one year.

While we did not obtain estimations as to the range of the loss of revenues for AMA this is also an issue of even-handed enforcement. We recommend that AMA openly deals with outstanding fees, including publishing notices and decisions on its website and other official information channels, and adopts an internal policy on graduated response so that sanctions for not paying fees are announced and mounted corresponding to the law. By the same token AMA should be fully accountable for its financial expenses and publish on its website all expenses and incomes pursuant to Article 27(2) of Law no. 97/2013. In about two years the financial situation of AMA should be re-assessed enquiring whether AMA could raise its operating budget to an appreciable extent (ca. 10 percent) as it would be necessary to de facto command financial autonomy.

Policy recommendations (addressed to AMA):

- e) AMA should publish notices and decisions regarding fees levied from industry on its website and other official information channels.
- f) AMA is advised to adopt a by-law formulating a graduated response so that sanctions for not paying fees are announced and mounted corresponding to the law.
- g) Two years after introducing its strategy, AMA should reassess its financial autonomy from improving its fee structure, collection and enforcement strategy, possibly with the help of external independent experts.

3.2.3 *Autonomy of decision-makers*

The autonomy of decision-makers is the most pressing and politically sensitive attention point that requires contextual interpretation of the formal and the de facto situations.

As it was recognized earlier, the legal requirements for nominations and appointments of the AMA chair, deputy-chair and the other five members of the board laid down in Articles 10, 11 and 13 of Law 97/2013 codifies a political power-sharing arrangement. According to these procedures three candidates for the board must have the support of the majority in Parliament, while three must have the support of the opposition. The chair is appointed through a majority vote in Parliament and the deputy-chair is chosen by the board members from the opposition. Given this situation, it is obviously very difficult to argue that political majorities and power structures are not reflected in the composition of the board.

The democratic legitimization of decision-makers of independent regulatory bodies would always require the involvement of the parliament (and sometimes the executive too).³⁹ There is large variation in national arrangements of nominating and appointing members to the highest decision-making organ of national independent supervisory bodies in the audiovisual media sector.⁴⁰ As a best practice the INDIREG indicator capturing nomination and appointment procedures favours the involvement of diverse political and societal players over unilateral influence of a political majority in parliament.⁴¹ From this perspective the formal situation of Law 97/2013 would have fared sufficiently well compared to unilateral appointment by the political majority or let alone the executive. We still believe that the present legislative arrangement engrains political appointments too deeply at the stage of nomination and that it may fail to produce adequate results in a possible scenario of a future coalition government.

Policy recommendation (addressed to the Albanian legislator):

4. The nomination procedure should strictly favour candidacies based on their merit in terms of professional expertise over political support by either the majority or the opposition.
5. The overall composition of the board in terms of professional background and representativeness of the society (e.g. gender) should be better recognised in the legal nomination procedure.
6. Consider if the Secretary General of AMA could become an ex officio member of the board.

Appointment politicization already poses a high risk of external political influence that dominates the composition of the highest-decision making organ. We observe that after

³⁹ Hans Bredow et.al. , “INDIREG Final Report”,, p. 224.

⁴⁰ See Council of Europe Recommendation (2000)23.

⁴¹ See Hans Bredow et.al. , “INDIREG Final Report”, p. 381.

the change of government the transition from KKRT to AMA has been disrupted by significant post-electoral vulnerabilities. It should be recognized however that the reform of KKRT to AMA has been agreed before this change of government took place but with institutional continuity in mind (see below). According to the literature, post-electoral vulnerabilities are indicative of political influence being exercised over independent regulatory authorities.⁴² The proxy to detect post-electoral vulnerabilities is that shortly after a new government comes in power, members of the highest decision-making organ of independent regulatory authorities are dismissed or resigned as a result of political conflicts over their mandate.

The difficult transition from KKRT to AMA

Just a couple of months after law no. 97/2013 was passed general elections were held in Albania in June 2013 which led to change of government. The Democratic Party of Albania, led by Sali Berisha, lost to the Socialist Party of Albania, led by Edi Rama. This means that the newly adopted law governing AMA would be tested with a new government in power. Article 134 of the 2013 law states that:

The chair and the members of the KKRT, selected according to the law No. 8410 date 30.09.1998 ‘on the public and private radio and television in the republic of Albania’ as amended, continue to stay in duty even after the entry into force of this law, up to the end of the term defined in the appointment mandate. The vacancies of AMA are filled according to the definitions of Articles 8 and 9 of this law.

The objective of this provision was to make sure that the transitions between the old and the new regulator was done in an orderly way.

Despite this article different interpretations emerged on whether AMA constituted a new body, where the all Board members should start with clean mandates, or whether AMA should take over the NRCT board members. The Democratic Party, which now found itself in opposition, made the latter interpretation, whereas the Socialist Party advocated the former. Differences over the legacy members of the AMA board escalated in a chain of events that intended to remove especially the then chair from the board:

1. Draft amendment (134) would have reversed today’s article 134 with the consequence that the term of all members of the KKRT board would have expired (withdrawn).⁴³
2. The legality of the mandate of Chairwoman Endira Bushati was contested on the grounds that her second term in office was approved by the parliament in 2011 but not her second term as a (simple) board member of KKRT after it ended in September 2012.

⁴² See Hanretty, C, and Koop, C. (2012), p. 195; INDIREG study, p. 401f.

⁴³ Compare also the assessment of the OSCE Representative on the Freedom of the Media, letter of 14 March 2014.

3. In June 2014, the Chairwoman Endira Bushati was officially suspended from her functions by a court in relation to charges being pressed against her for allegedly abuse of office.

In parallel, on 23 May 2014 the Parliament announced the vacancy for the Chair of AMA and the three vacancies for members of the AMA board. In accordance with the new law, representatives of civil society, stakeholders etc. were free to nominate names, that the Parliamentary Committee of Education and Means of Public Information made its selection from and then should have brought forward to the Parliament for a vote. However, nomination by this committee stalled and no consensus could be reached around these names. While the majority in parliament seemingly focused on replacing the Chairwoman in one way or the other and filling the vacancies on the AMA board, the members of parliament of the opposition in the Committee refused to cooperate in the nomination process in line with an overall boycott by the opposition in the parliament.

The resulting stalemate has been and stays very damaging to AMA. In September of 2013, AMA lost legal quorum for certain types of decisions (e.g. by-laws) that require the presence of 5 members, in March 2014 one board member refused to take part in decisions and in May the quorum was completely lost with the dismissal of its Chair. This de-capacitated its decision-making and therefore obstructed a great many regulatory functions. The legal quorum was reached again in October 2014, when the Assembly selected two new board members supported by the party in power bringing the total number of board members to five. As of October 31, there is one vacancy for a board member who should be supported by the opposition and the unresolved issue around the Chair of AMA that may lead to a new appointment.

That the position of the Chair has been the aim of a variety of tactics to remove her can be explained by the Chair's influence on the voting of the AMA board. Art. 13(3) and Art. 13(4) of Law 97/2013 grants a super-vote to the chair. Such influence by the Chair on the voting of the AMA board would render it attractive to remove him/her after a change of power following Parliamentary elections. In the case of the former Chair of AMA, on the one hand, the appointment of a new chair in the meantime would create facts that cannot be reversed should judicial review conclude against the dismissal of the then Chair. On the other hand, judicial review can last for several years and the outcome is not certain. For AMA this legal uncertainty would cause a stall-mate in its governance structure that would hinder its effective functioning too.

From a best practice perspective the majority and the opposition should strive to jointly promote a candidate for the Chair who receives wide societal support across political delineations. In practice, this poses a challenge due to the existing political cleavages but also due to potential candidates' concern that by being elected, this would compromise per se their integrity.

It is also important to understand that appointment politicization spirals the problem with the autonomy of decision-makers into the future. Political appointments

undermine AMA ability to self-assert itself as the legitimate regulatory authority in the audiovisual media sector and regulatees may chose political avenues to influence policy-making instead. In the event that the pendulum of political power swings in another direction this would likely provoke new post-electoral vulnerabilities. This way AMA is never going to mature into an independent and impartial supervisory authority for the audiovisual media sector of Albania. One step to enhance the independence of the Board would be to consider if the secretary general of AMA should become an ex officio member of the board.

Policy recommendation (addressed to the Albanian legislator):

7. The majority and the opposition forces in the parliament should cooperate more effectively to proceed strictly in line with the legally foreseen nomination and appointment procedure for board members.
8. The majority and the opposition should strive to jointly promote a candidate for the Chair who receives wide societal support across political delineations.
9. The nomination process for the AMA chair, the deputy-chair and members now should give preference to candidates which receive support from all political camps and in society.

Countering threats to board member and staff

Another severe problem are reports that AMA board members and also staff have been allegedly intimidated and threatened by regulatees. We recommend AMA to adopt organizational measures that follow up on such incidents and issue behavioral advice on how to react when intimidated or threatened. For example, such incidents should be officially reported and documented, AMA personnel should be able to record phone calls for evidence and meetings should be attended by two members of staff or from the board (four-eyes principle). ‘Purger’ is another behavioural strategy in which public officials leave the room or meeting whenever they are put in a situation that intimidates or provokes conflict of interest. Trainings could help members of the Board and the staff to learn and practice these strategies.

Policy recommendation (addressed to AMA):

- h) AMA should adopt organizational measures against intimidation and threats from third parties and issue behavioral advice how to react when intimidated or threatened.
- i) AMA should make sure to officially report and document threats received and to ensure that follow-up action is taken (e.g. report to the police and where appropriate filing with the prosecution service).

3.2.4 Knowledge

Formal situation

Leveraging regulator knowledge was taken into account in the formulation of Law No 97/2013. This can be seen in appointment procedures for the board members, and, as before, cooperation with international actors is encouraged.

Whereas the requirements contained in the previous law only sought members of the Board to be "personalities" (i.e. known figures) in certain areas, the new law shifts the focus to the professional experience of the members of the board by requiring ten 10 years of experience within one or several out of the twelve listed fields. The fields are in themselves broad (e.g. 'media in general', 'justice, law or public administration', 'art, culture and music', 'social, educational activities for development of local, public and national entities that are related or have a direct impact on the audio-visual activities') and probably could cover a large part of the country's professional elite. This is, however, in line with Council of Europe Recommendation 23(2000), which states that regulatory authorities should include experts in the areas that fall within their competence, but acknowledges that different traditions between countries make narrowing down difficult.

This requirement for professional expertise is not extended to senior staff members, and there is no requirement to have a specific qualification (i.e. university degrees). The law also does not specify the areas of professional expertise. The creation of an AMA Secretary General (Article 16) could possibly be interpreted as a step to strengthen administrative knowledge within the agency.

The possibility to seek external advice and get best practices is legally provided for. The law lists for instance cooperation with homologous bodies of other countries as one of AMA's functions (Article 19, 2:d).

Policy recommendation (addressed to the Albanian legislator):

10. Amend the law (e.g. Article 15) to extend requirements for knowledge to senior staff members.
11. Amend the law (Article 8) to add requirements on qualifications to be eligible candidate to become a board member.

De facto situation

AMA's structure, as approved by the Parliament in 2008 is composed of the Cabinet, Legal Department, Technical Department, Programs Department, Finance Department, Human Resources and Services Department. In 2014, AMA has 49 employees. The management consists of the AMA Board Chairman and Deputy Chairman (full-time Board members), an Advisor, a Secretary of the Chairman and a Secretary of Deputy Chairman. Thirty-five are so called technical staff, and there are 8 supporting service employees, who are hired based on the Labour Code of Albania. Vacant positions in the last years have regularly advertised for early-career candidates with university degrees, proficiency in English and professional experience in the relevant field.

Despite the extensive expertise of Board members judged from their CVs (see above in Section 2.3.4.), it is clear from interviews from stakeholders and independent experts that there is widespread distrust against AMA when it comes to the level of competence. There seems to be a near-consensus around the perception that many Board members, senior staff and general staff lack in competence, even though the assessment differs between if 'a majority has qualification and professional expertise' or if only a minority has that. Hence, even though Law No 97/2013 improved the professional criteria for board members, there is a widespread perception that some of the board members and some members of staff may not have been chosen only based on their level of competence, but primarily for their political affiliations. Moreover, the distribution of formal competencies between professions may not be optimal for the efficient functioning of the agency since economical and technical expertise is underrepresented.

It should be emphasized here that the information we gathered from our interviews is probably not sufficient to confirm outright that AMA de facto lacks professional competence. However, what can be said, it that there is a widespread perception that the regulator lacks technical expertise, and this could have severe consequences on AMA's long-term ability to work efficiently with and for its stakeholders. We remarked that vacancy notices exclusively seek for early career professionals but mid- and advanced carrier professionals especially with a technical and economic background could help enhancing the knowledge AMA commands. Possibly, budgetary resources would also be needed for trainings. This is reflected in the policy recommendations.

Policy recommendation (addressed to AMA):

- j) The share of senior staff with technical understanding should be increased. This can be addressed through giving priority to this qualification as the senior staff level and conducting short-term intensive training courses for Board members and staff alike.
- k) Where appropriate AMA should open vacancies for mid- and advanced carrier professional that is adequately recognised in the rank and salary specifications.
- l) AMA should work more actively to demonstrate how it ensures that staff is hired on grounds of competency and that existing staff receive trainings as required.
- m) AMA should evaluate the option of hiring university graduates based on streamlined meritocratic tests.
- n) AMA should engage in exchanges of staff from other European audiovisual media regulators.

3.2.5. Accountability and transparency

Regarding accountability and transparency the main problem stems from a not very developed ‘culture’ of transparency but also participation from stakeholders. For instance, when consultations are organised, only a very few number of respondents take part. Public consultations are organised through different channels, announcements on the website, seminars, workshops etc. A range of stakeholders are invited to take part, including consumer associations. However, despite having organized 4 consultations in 2013, and 2 in 2014, only a very few number of operators took part. This can be attributed both to dissatisfaction on the part of some regulatees and no perceived value of consultative processes compared to other avenues of influence. Many stakeholders also wish for increased amounts and quality of the information published by the regulator should be increased. In addition, some would want to see more information on the structure of the media market, on the number of operators, their market share etc.

The judicial review is an important element of democratic checks and balances on the discretionary powers of independent regulatory authorities. From the context we deduce a difficult mix of extensively using judicial review to hinder regulatory decisions to take effect but also that core decisions by the regulator did not withstand judicial review at the level of lower courts. For example the suspension of the allocation of the digital multiplex frequency is said to cause a very unwanted delay in the whole process of the digital switch-over that is believed to favour one operator on the market who is benefitting from using frequencies in the meantime. However, it is beyond the scope of this study as these questions are linked to the independence of the judiciary system.

The reporting obligation already existed under the previous law, so it is quite easy to see the extent to which this obligation is satisfied by the regulator. On numerous occasions the regulator has highlighted some of its difficulties, especially regarding the collection of fines and its difficulties to carry out inspections. These cases are illustrated in Table 27 bis in the Annex, together with the main features of the resolution that was adopted by Parliament. It is interesting to see that in 2013, the resolution stresses for the first time major shortcomings of the regulator, especially on the fight against piracy.

On external auditing, we have not been informed that the regulator has been audited in the past years.

Taken together, this leads up to the recommendations in this dimension being directed towards AMA.

Policy recommendations (addressed to AMA):

- o) The regulator should focus on providing written summaries of the outcome of consultation.
- p) All annual reports and decisions with motivations should be uploaded and searchable on the website.
- q) Market data information should be provided by AMA on its website.
- r) AMA could consider publishing draft annual plans for consultation.
- s) AMA should publish all notices, events, board minutes, the list of tariffs, and sanction applied in case of non-compliance.

Conclusion

Overall, AMA faces two sets of challenges of a very different nature:

Under the first set of challenges, AMA has yet to credibly emerge as the independent regulatory authority for the audiovisual media sector at arm's length from politics and its regulatees. At this moment in time AMA's functioning is hampered until its board is fully operational again. There is a continuing risk that politicized appointments can lastingly damage the perception of AMA being an impartial arbitrator in pursuit of the public interest.

The second set of challenges concern that AMA operates in an overall environment where the culture to respect its independence and legal compliance is not very succinct. The risk of external influence on AMA is correspondingly high. Both KKRT and for the time being AMA did not fully succeed to assert itself in the sector it regulates as impartial and effective independent regulatory body.

Both sets of challenges, the de facto independence of AMA and the environment in which it operates influence each other and weight down perceptions of its regulatory capabilities and efficient functioning.

The following policy recommendations were derived as a result of the contextual interpretation of these attention points. Policy recommendations are addressed either to the Albanian legislator (Table 3) or to AMA (Table 4).

Table 3: Policy recommendation addressed to the Albanian legislator

<i>Status and powers</i>	<ol style="list-style-type: none"> 1. Amend article 15 of Law no. 97/2013 on the structure and organisation chart of AMA so as to grant organisational autonomy to AMA that does not depend on the approval of the Albanian Parliament or the government. 2. Consider if certain powers strictly related to regulating the transmission of electronic signals by pure electronic communications operators (e.g. terrestrial broadcast network operators, administration of spectrum used for broadcasting, etc).that are now with AMA could be transferred to the AKEP.⁴⁴ 3. The active fight against broadcasting piracy could also be removed from AMA's responsibilities while it could help executing civil courts decisions finding the infringement of broadcasting rights by its regulatees.
<i>Autonomy of decision-makers</i>	<ol style="list-style-type: none"> 4. The nomination procedure should strictly favour candidacies based on their merit in terms of professional expertise over political support by either the majority or the opposition. 5. The overall composition of the board in terms of

⁴⁴ However, AMA should remain responsible to grant licenses for broadcasting content providers to access digital broadcasting multiplex capacity.

	<p>professional background and representativeness of the society (e.g. gender) should be better recognised in the legal nomination procedure.</p> <p>6. Consider if the secretary general of AMA could become an ex officio member of the board.</p> <p>7. The majority and the opposition forces in the parliament should cooperate more effectively to proceed strictly in line with the legally foreseen nomination and appointment procedure for board members.</p> <p>8. The majority and the opposition should strive to jointly promote a candidate for the Chair who receives wide societal support across political delineations.</p> <p>9. The nomination process for the AMA chair, the deputy-chair and members now should give preference to candidates which receive support from all political camps and in society.</p>
<i>Knowledge</i>	<p>10. Amend the law (e.g. Article 15) to extend requirements for knowledge to senior staff members.</p> <p>11. Amend the law (Article 8) to add requirements on qualifications to be eligible candidate to become a board member.</p>

Table 4: Policy recommendation addressed to AMA

<i>Status and powers</i>	<p>a. In order to demonstrate and monitor impartial decision-making AMA should build and publish on its website a repository of all its decisions with motivations that is organised to reflect subject-areas and the application of AMA code powers.</p> <p>b. On internal organisation, make sure to appoint as a Secretary-General someone with a high level of professional expertise and moral integrity</p> <p>c. Make sure the Complaints Council is appointed as quickly as possible and operates in an efficient and transparent manner</p> <p>d. To clearly mark the transition from KKRT to AMA, AMA should communicate better to the public its new role and powers. There should be consistency in its external representation, for instance, it should change its name outside the main office entrance.</p>
<i>Financial autonomy</i>	<p>e. AMA should publish notices and decisions regarding fees levied from industry on its website and other official information channels.</p> <p>f. AMA is advised to adopt a by-law formulating a graduated response so that sanctions for not paying fees are announced and mounted corresponding to the law.</p> <p>g. Two years after introducing its strategy, AMA should reassess its financial autonomy from improving its fee structure, collection and enforcement strategy, possibly with the help of external independent experts.</p>
<i>Autonomy of decision-makers</i>	<p>h. AMA should adopt organizational measures against intimidation and threats from third parties and issue</p>

	<p>behavioral advice how to react when intimidated or threatened.</p> <p>i. AMA should make sure to officially report and document threats received and to ensure that follow-up action is taken (e.g. report to the police and where appropriate filing with the prosecution service).</p>
<i>Knowledge</i>	<p>j. The share of senior staff with technical understanding should be increased. This can be addressed through giving priority to this qualification as the senior staff level and conducting short-term intensive training courses for Board members and staff alike.</p> <p>k. Where appropriate AMA should open vacancies for mid- and advanced carrier professional that is adequately recognised in the rank and salary specifications</p> <p>l. AMA should work more actively to demonstrate how it ensures that staff is hired on grounds of competency and that existing staff receive trainings as required.</p> <p>m. AMA should evaluate the option of hiring university graduates based on streamlined meritocratic tests.</p> <p>n. AMA should engage in exchanges of staff from other European audiovisual media regulators.</p>
<i>Accountability and transparency</i>	<p>o. The regulator should focus on providing written summaries of the outcome of consultation.</p> <p>p. All annual reports and decisions with motivations should be uploaded and searchable on the website.</p> <p>q. Market data information should be provided by AMA on its website.</p> <p>r. AMA could consider publishing draft annual plans for consultation.</p> <p>s. In addition AMA should publish all notices, events, board minutes, the list of tariffs, and sanction applied in case of non-compliance.</p>

ANNEX A: Tables justifying assessment of Formal Dimension

1. General information

Table 1 - Market data

This table is aimed at gathering information on the number of audiovisual media services that are supervised in the country.

Country	Number of linear commercial services	Number of non-linear commercial services	Number of public service channels (PSBs)
Albania	<p>Two national privately owned television operators (Klan Tv and Top Channel Tv)</p> <p>71 regional and local analogue terrestrial television operators, privately owned</p> <p>83 local cable operators</p> <p>5 satellite television operators: Alsat, Vision Plus, Top Media, Digitalb, Tring and Supersport</p> <p>3 unlicensed digital transmission platforms: Tring, Digitalb and SuperSport</p> <p>(the figures reported are based on the available lists on the website of AMA http://www.ama.gov.al/index.php?option=com_content&view=category&id=21&Itemid=75&lang=sq)</p>	<p>1 on demand service http://www.ama.gov.al/index.php?option=com_content&view=category&id=21&Itemid=75&lang=sq)</p>	<p>1 (TVSH) - national</p> <p>TVSH, Second Programme (the second program is being broadcast only for Tirana)</p> <p>http://www.rtsh.al/</p>

Table 2 - Audiovisual laws and regulatory bodies

Country	Areas	Main laws	Regulatory body in charge of commercial television	Regulatory body in charge of non-linear commercial media services	Regulatory body in charge of PSB
Albania	Audiovisual commercial communication, sponsorship, product placement (Article 9 – 11 AVMS Directive)	Law no 97/2013 “On Audio-visual Media in the Republic of Albania” Article 42 on commercial communication, Article 44 on product placement, Article 45 on sponsoring	AMA	AMA	AMA and the Assembly
	Accessibility to people with a disability (Article 7 AVMS Directive) 3/10	Article 32/5 - Law no 97/2013 “On Audio-visual Media in the Republic of Albania” Article 28/2 - Law no 97/2013 “On Audio-visual Media in the Republic of Albania”	AMA	AMA	AMA
	Broadcasting of major events (Article 14 AVMS Directive)	Law no 97/2013 “On Audio-visual Media in the Republic of Albania” Article 3/16 Article 127 Article 128 Article 129	AMA	AMA	AMA
	Access to short news reports (Article 15 AVMS Directive)	Law no 97/2013 “On Audio-visual Media in the Republic of Albania” Article 33/1 Article 130	AMA	AMA	AMA
	Promotion of European works (Article 13, 16, 17 AVMS Directive)	Law no 97/2013 “On Audio-visual Media in the Republic of Albania” Article 3/52; Article 35; Article 36 -	AMA	AMA	AMA

Country	Areas	Main laws	Regulatory body in charge of commercial television	Regulatory body in charge of non-linear commercial media services	Regulatory body in charge of PSB
	Hate speech (Article 12 and 6 AVMS Directive)	Law no 97/2013 “On Audio-visual Media in the Republic of Albania Article 32/4; Article 76/1;	AMA	AMA	AMA
	Television advertising and teleshopping. (Article 19 – 26 AVMS Directive)	Law no 97/2013 “On Audio-visual Media in the Republic of Albania Article 41; Article 43;	AMA	AMA	AMA
	Protection of minors (Article 27 AVMS Directive)	Law no 97/2013 “On Audio-visual Media in the Republic of Albania: Article 33/1/e Article 42 points 5,7,8	AMA	AMA	AMA
	Right of reply (Article 28 AVMS Directive)	Law no 97/2013 “On Audio-visual Media in the Republic of Albania: Article 53	AMA	AMA	AMA
	Communication and cooperation with other Epean regulation bodies and the Commission (Article 30b AVMS Directive)	Law no 97/2013 “On Audio-visual Media in the Republic of Albania Article 19 point 10			

Table 3 - Regulatory bodies – general information

Country	Name of regulatory body	Link to website	Date of establishment	Location
Albania	Audiovisual Media Authority (AMA) All areas of AMA are listed in Table 2.	www.ama.gov.al	1998 AMA is the successor of NCRT founded 1998 as stated on the law. Law no 97/2013 “On Audio-visual Media in the Republic of Albania” not only changes the name from NCRT to AMA but also changes its competences and legal set up..	Rruga “Abdi Toptani”, Tirana, Albania Tel: +355 (0) 42/ 233 599 Fax:+355 (0) 42/ 226 288

Table 4 - Sectors covered

Country	Body	Audiovisual content (radio/TV, on demand media services)	Transmission aspects of audiovisual content (e.g. spectrum)	Distribution aspects of audiovisual content (e.g. must carry, EPG, API)	Spectrum	Electronic communications (networks and services in general)	Others (e.g. energy, post)
Albania	AMA	√	√	√	√ (Albanian Authority on Electronic Communication and Postal Services AKEP manages and administers the spectrum for electronic communications while AMA administers the spectrum for broadcasting) See Law no 9918 dates 19.5.2008 amended by Law no 102/2012 article 62 Law No 97/2013, Article 54	AKEP is the national regulatory body for electronic communications and postal services in the Republic of Albania. AKEP is the successor of the previous Telecom Regulator Telecommunications Regulatory Entity – ERT, created by law 8287 of February 18th, 1998.	

Table 5 - Staff and overall budget

Country	Body	Total number of staff foreseen in statutes/law	Current staff count	Annual budget (€m) foreseen in statutes/law	Current annual budget
Albania	AMA	<p>Not foreseen</p> <p>No legal act determines the total number of staff.</p> <p>Article 15, paragraph 2 provides that AMA proposes to the Assembly the structure and organisational design of the institution for approval by the Assembly.</p> <p>Currently, this proposal has been sent to the Assembly. But since 2013 it is pending approval.</p> <p>Source: 2013 annual report of AMA, dated Feb.2014, which refers to a letter sent to the Assembly.</p> <p>Proposal is not publicly available.</p>	<p>32 until 2006,</p> <p>48 until 2008</p> <p>54 between May, 19, 2008 and November 2009</p> <p>48 since November 2009</p>	<p>Not foreseen</p> <p>No legal act determines the annual budget</p> <p>Article 24 of the law 97/2013 lists the financing sources of AMA.</p>	<p>0.32 m € (2009)</p> <p>0.51 m € (2010)</p> <p>0.5 m € (2011)</p> <p>0.58 m € (2012)</p> <p>0.58 m € (2013)</p> <p>0.8 m € (2014)</p>

2. Institutional Framework

Table 6 - Legislation establishing and governing the regulatory body

Country	Body	Legislation setting-up the regulatory body	Governing legislation
Albania	AMA	Law no 97/2013 “On Audio-visual Media in the Republic of Albania”	Law no 97/2013 “On Audio-visual Media in the Republic of Albania”

Table 7 - Legal status

Country	Body	What form does it take?	It is a separate legal entity?	If it is not a separate legal entity, it is part of:	Specific organisational characteristics	Source
Albania	AMA	An independent legal person. A public entity whose members are appointed by the Assembly on the basis of their expertise. It is accountable only to the Assembly. It also has an independent budget.	Yes		The administrative staff of AMA enjoys the privileges and guaranties of the civil servant status as foreseen by the by the law 152/2013 “On status of civil servant”. Also, law 97/2013 provides for the position of the Secretary General and its obligations.	Law 97/2013

Table 8 - Independence as a value

In the source, please list the highest formal legal level where this value is recognised. If it is a guiding value, but with no formal origin, please tick no and explain.

Country	Body	Is independence implicitly or explicitly recognised as a value in the legal framework?		Source (highest formal legal level)
		No	Yes	
Albania	AMA		√ Article 6, paragraph 2 states that AMA is an independent public legal person with headquarters in Tirana.	Law no 97/2013 “On Audio-visual Media in the Republic of Albania”

3. Powers of the regulatory bodies

Table 9 - Regulatory powers

This table is aimed at understanding the types of decisions that can be taken by the regulatory body.

We have distinguished from a theoretical point of view, between:

- general policy setting powers, i.e. the power to decide on the general orientation of the rules to be followed (for instance the power to decide on the amount of quotas)
- general policy implementing powers, i.e. once the general policy has been adopted, to specify by means of general or abstract rules how this general policy will be implemented (for example to decide in general terms (not connected to a specific case) how the quotas should be applied and monitored)
- third party binding policy application powers, i.e. the power to take in a specific case a decision binding on specific operators

Country	Body		General policy setting	General policy implementing powers	Third party decision making powers
Albania		Tick boxes √	√	√	√
		Areas See Article 19 of Law No 97/2013	<ul style="list-style-type: none"> • Strategy of AMA article 21 of Law • Drafts strategies for offering transmission services in the Republic of Albania; • Collaborates with the minister in drafting the National Plan of Frequencies; • Collaborates and consults with Postal and Electronic Communication Authority, Competition Authority, Copyright Office • Provides its opinion on the signature and implementation of international agreements related to audiovisual media 	<ul style="list-style-type: none"> • Drafting and approval of the code and rules for audiovisual broadcasting and other sublegal acts in implementation of the law • Drafting and approval of the rules on procedures and criteria for granting licences/authorisations • Determining the licences fees • Preparation and issuance of instructions for the Albanian Radio-Television (ART - public operator) • Determining the criteria and regulatory measures for the common use of broadcasting infrastructure of ART (the Albanian Radio Television) 	<ul style="list-style-type: none"> • AMA monitors the implements audiovisual media law by subjects operating under that law and imposes sanctions in cases of breach of the law • AMA cooperates with other public organs, as per their competences, for the execution of its sanctions. • Resolution of disputes between the providers of audio or audio-visual broadcasting services, including disputes with public broadcaster;
		Source	Law no 97/2013 “On Audio-visual Media in the Republic of Albania”	Law no 97/2013 “On Audio-visual Media in the Republic of Albania” as well as Rules and Regulations developed in accordance with them	Law no 97/2013 “On Audio-visual Media in the Republic of Albania” as well as Rules and Regulations developed in accordance with them

Table 10 - Supervision and monitoring power

This table is aimed at understanding the supervision/monitoring/information gathering powers of the regulatory body.

We have taken quotas, advertising and the protection of minors as examples of the areas where these powers can be exercised.

This table is not concerned with how these powers are used in practice.

Country	Body	Areas	Systematic monitoring	Ad-hoc monitoring	Information collection powers	Monitoring only after complaints	Others	Source (legislation, or practice)
Albania		Quotas	√	√	√			Law no 97/2013
		Advertising	√	√	√			Law no 97/2013
		Protection of minors	√	√	√			Law no 97/2013
		Right of reply				√	√	Law no 97/2013
		Licence conditions	√	√	√			Law no 97/2013
		Radio and TV frequency monitoring	√	√	√			Law no 97/2013

Table 11 - Powers of sanctions

This table provides an overview of the sanctions that can be adopted by the regulatory body in case of breach of some of the main rules, e.g. quotas, advertising and protection of minors. For each of them, specify if the sanctions are non-discretionary/automatic or if the regulatory body has some discretion in deciding on whether or not adopt a sanction and on the type and amount of the sanction.

This table is not concerned with how these powers are used in practice.

Country	Body	Areas	Warnings/formal objections	Fine (lump sum) If so, list maximum and minimum amounts	Publication of decisions in the media	Suspension/Revocation of licence	Penalty payments (in case of non compliance with decision)	Others
Albania	AMA	Quotas	√	850 – 1450 € Source: Art 133 of the Law 97/2013, exchange rate for conversion: 1 €=144ALL	Not foreseen in the law	√ (Licence is revoked if the licensee breaches the licensing conditions, if it sentenced more than 3 times within a year)	Not foreseen	

Country Albania	Body	Areas	Warnings/formal objections	Fine (lump sum) If so, list maximum and minimum amounts	Publication of decisions in the media	Suspension/Revocation of licence	Penalty payments (in case of non compliance with decision)	Others
	AMA	Advertising	√	850 – 1450 € Source: Art 133 of the Law 97/2013, exchange rate for conversion: 1 €=144ALL	Not foreseen in the law	√ (Licence is revoked if the licensee breaches the licensing conditions, if it sentenced more than 3 times within a year)	Not foreseen	
	AMA	Protection of minors	√	300 – 3000 € Source: Art 133 of the Law 97/2013, exchange rate for conversion: 1 €=144ALL	Not foreseen in the law	√ (Licence is revoked if the licensee breaches the licensing conditions, if it sentenced more than 3 times within a year)	Not foreseen	
	AMA	License conditions	√	7000- 14000 € Source: Art 133 of the Law 97/2013 exchange rate for conversion: 1 €=142ALL	Not foreseen in the law	√ Licence is revoked if the licensee breaches the licensing conditions, if it sentenced more than 3 times within a year)	Not foreseen	
	AMA	Radio and Tv frequency managing & monitoring	√	7000-21000 € Source: Art 133 of the Law 97/2013 exchange rate for conversion: 1 €=142ALL	Not foreseen in the law	√ (Licence is temporarily suspended if the licensee causes damaging interferences repeatedly or breaches the obligations related to the use of digital network) Source: Art 79-80 of the Law 97/2013	Not foreseen	
	AMA	Illegal Broadcasting	√	35000-70000 € Source: Art 133 of the Law 97/2013 Source: Art 133 of the Law 97/2013 exchange rate for conversion: 1 €=142ALL	Not foreseen in the law		Not foreseen	

Table 12 - Complaints handling

This table shows whether there are procedures for dealing with complaints coming from viewers against conduct of audiovisual media service providers..

Country	Body	Do complaints handling procedures exist?	Link to website
Albania	AMA	Yes, the law provides details on the complaints procedure that are handled through the Complaint Council.	www.ama.gov.al

4. Internal Organisation and Staffing

Table 13 - Highest decision-making organ – composition

- Please state if the highest decision-making organ of the regulatory body/bodies is an individual or a board/commission and if it is a board/commission, tick the relevant representative components (specify the number of representatives per category and the proportion of that category in the whole composition).
- The highest decision-making organ is the organ responsible for regulatory tasks, namely supervision and enforcement. The highest decision-making organ can also be an internal body to the public service broadcaster if it has the power to issue binding decisions. 'Representation' does not necessarily mean formal representation (delegation) of that group. It can mean that the board member is expected to emanate from that group, but does not have to formally represent it during the mandate (common practice).

Country	Body	Individual or Board	Number of Board member	Legal requirements regarding composition of highest decision-making organ						Implicit representation structures?	Source
				Representatives of civil society	Representatives of government	Representatives of the Assembly	Representatives of industry	Experts	Others (e.g. regions)		
				Yes or no Number of representatives Proportion of this group in the board	Yes or no Number of representatives Proportion of this group in the board	Yes or no Number of representatives Proportion of this group in the board	Yes or no Number of representatives Proportion of this group in the board	Yes or no Number of representatives Proportion of this group in the board			
Albania	AMA	Board	7	No (but can suggest a candidate for nomination)	No	No	No (but can suggest a candidate for nomination)	No (but can suggest a candidate for nomination) Article 8,9,10 of the Law No 97/2013	No	Possibly : <ul style="list-style-type: none"> • Associations and groups of electronic media • Press media associations • Electronic and electronic engineering professors and associations • Professors of law, journalism/communication, economy, lawyer associations or the national bar • Non-profit organisations working in the field of human rights, representing children's rights, protection of people with disabilities etc. 	Law 97/2013

Table 14 - Highest decision-making organ – competences and decision making process and transparency

This table is intended to show the main fields of responsibility of the highest decision-making organ of the regulatory body as well as its decision making process.

- For the competences, please list main competences and specify if the body is competent to determine its internal organisation and procedures and whether it has a decision making power on human resource.
- On the decision making process, please specify how decisions are taken: by majority vote, consensus, whether there a presence quorum. Please indicate source and/or link.
- Is the decision making process transparent and does the highest decision making body publish agendas and minutes of its meetings? If so, please provide link.

Country	Body	Competences	Decision making process	Is the decision making process transparent?	Minutes and agendas published?
Albania	AMA	All regulatory matters in the fields of media broadcasting (see table 9) (Article 19, article 25 of Law 97/2013)	Collegial board level. Generally AMA takes decision with the majority of the votes of all the members present in the meeting, except specific cases foreseen in the law, asking for a qualified majority. These cases include the setting of internal rules, the granting and/or removal of licences, the appointment of the complaints committee, which all need to be adopted by qualified majority voting. AMA can draft its internal organisation structure but it is subject to approval from the Assembly.	Yes. Transparency principle is required in decision making process.	No. However they are taken and are made available on request.

Table 15 - Highest decision-making organ – appointment process

This table shows whether there are several stages in the appointment process of the chairman and members of the highest decision-making organ of the regulatory body, for the nomination and appointment phases respectively. It also shows who is involved in each of these two stages (government, minister, the Assembly, civil society, religious groups, political parties, board members, board chairman, others) and whether the appointer(s) can override the proposals made at the nomination stage.

Country	Body		Nomination stage Yes – No	Nomination stage Specify who is involved in that stage and who has the decisive say	Appointment stage Specify who is involved in that stage and who has the decisive say	If there are two stages, can the appointer ignore the nominations?	Source
Albania	AMA	Chairman	Yes	<p>The Assembly Committee on Education and Public Information Means verifies the criteria and makes the final selection based on the strongest support by the members of the Committee.</p> <p>The Chair (who is also the seventh member of the board) is elected no later than 10 days after the procedure for electing the members of the board of AMA.</p> <p>No later than 30 days prior to the expiration of the mandate of the chair of AMA, the Assembly publishes an announcement of the vacant position of the Chair. Any citizen who has the professional experience of at least 10 years in the areas listed in the law can be presented as a candidate.</p> <p>The Committee on Education and Means of Public Information verifies that the criteria listed in the law are fulfilled. Following this, the Committee nominates the 4 candidates that have received the greatest support among the Committee members. Each member can support up to 4 candidates. If more than one candidate have the same support, the matter will be decided by lottery.</p> <p>2 candidates are excluded by the representatives of minority groups.</p> <p>2 nominated candidates are passed on to the Assembly.</p>	The chair is appointed by the Assembly.	The appointer cannot ignore the nominations.	Law 97/2013
		Board members	Yes	<p>The Committee of Education and Means of Public Information invites through public invitation a number of organisations to propose candidates:</p> <ul style="list-style-type: none"> • Associations and groups of electronic media • Press media associations • Electronic and electronic engineering professors and associations • Professors of law, journalism/communication, economy, lawyer associations or the national bar • Non-profit organisations working in the field of human rights, representing children's rights, protection of people with disabilities etc. <p>These associations have 30 days to propose candidates following the public invitation to send names.</p> <p>The Committee selects candidates 'among at least 4 candidates for each seat of AMA member'</p> <p>Assembly Committee on Education and Public Information Means makes the final selection safeguarding the political equilibrium (3 supported from the party in power and 3 from the opposition)</p>	<p>The Assembly Committee on Education and Public Information Means proposes the nominations to the Assembly.</p> <p>Assembly approves or not the nominees. Chair is elected if he receives more than half of the votes of the Assembly.</p>	The appointer cannot ignore the nominations.	Law 97/2013

Table 16 - Term of office and renewal

This table shows the term of office of the chairman and members of the highest decision-making organ of the regulatory body and whether the term is staggered not to coincide with election cycles. It also indicates if appointment is renewable and for how many times.

If there is more than one organ responsible within a regulatory body (for instance one organ in charge of management questions, and one in charge of regulatory questions) please fill out for each organ, by using different rows to the extent that different rules apply.

Country	Body		Term of office	Is the term staggered not to coincide with election cycle?	Renewal possible? If so, state how many times	Source
Albania	AMA	Chairman of the board	5 years	Not mentioned in the law	Only once	Law 97/2013
		Board members	5 years	Not mentioned in the law	Only once	Law 97/2013

Table 17 - Professional expertise/qualifications

This table illustrates the qualifications and professional expertise required to become a chairman or member of the highest decision making organ of the regulatory body.

Country	Body		Qualifications	Professional expertise	Source
Albania	AMA	Chairman of the board	No requirements	Not less than 10 years of expertise in the areas of: <ul style="list-style-type: none"> • Media in general • Audiovisual broadcasting of public, commercial or non-commercial services; • Production of content of audiovisual broadcasting • Media technology • Economy, administration and competition rules • Issues of development of Albanian language; • Issues related to the persons with disabilities and other vulnerable groups; • Art, culture and music • Justice, law, public administration • Science, environment and technological development • Consumer protection • Social and educational activities, development of local communities, public and national, related directly or indirectly to audiovisual activity. 	Law 97/2013
		Board members	No requirements		Article 9,10,11 Law 97/2013

Table 18 - Requirement to act in an independent manner

This table shows if there is a requirement for the board of directors and the chairman to act in an independent manner during their term of office.

Country	Body		Requirement to work in an independent manner	Source
Albania	AMA	Chairman of the board	Yes Article 7 point 3 and 4 (rules on non-compliance and conflict of interest)	Law 97/2013
		Board members	Yes Article 7 point 3 and 4 (rules on non-compliance and conflict of interest)	Law 97/2013

Table 19 - Rules to guard against conflicts of interest – Appointment process

This table shows whether there are clear rules, in the appointment process of the chairman and members of the highest decision-making organ of the regulatory body, to avoid possible conflicts of interest. For the rules on incompatibilities, please also specify if civil servants/members of other public bodies can enter the regulatory body.

Country	Body		Do such rules exist?		Rules to ensure conflicts of interest with government	Rules to ensure conflicts of interest with political parties	Rules to ensure conflicts of interest with industry	Can other offices be held at the same time?	Others (e.g. obligation to disclose participations in companies)	Source
			Yes	No						
Albania	AMA	Chairman	Yes		Should have not been member of the Council of Ministers in the last 3 years. and the specific law on the Prevention of Conflict of Interest (law 9367, with its changes and additions) This specific law is the main and general law on the prevention of conflict of interest in the exercise in public functions.	Should not be member of political parties or political associations in the last 3 years and the specific law on the Prevention of Conflict of Interest (law 9367, with its changes and additions)	Should not own capital or shares of commercial companies, as well as other rights in the area of audiovisual broadcasting, advertisement, production of audiovisual broadcasting content, and electronic communication network. + the specific law on the Prevention of Conflict of Interest (law 9367, with its changes and additions)	No	Yes, AMA Rules on the prevention of conflict of interest for members and the administration of the National Council of Radio Television lists other obligations such as those regarding the acceptance of gifts, favours, promises or preferential treatment, entering into contracts, membership in anonymous companies, leading nongovernmental organisations etc. However, these rules are issued based on the old law and de jure not in force	Law 97/2013 Article 7, 9,10,11
		Board members	Yes		Should have not been member of the Council of Ministers in the last 3 years. and the specific law on the Prevention of Conflict of Interest (law 9367, with its changes and additions)	Should have not been member of the Council of Ministers in the last 3 years. and the specific law on the Prevention of Conflict of Interest (law 9367, with its changes and additions)	Should not own capital or shares of commercial companies, as well as other rights in the area of audiovisual broadcasting, advertisement, production of audiovisual broadcasting content, and electronic communication network and the specific law on the	Yes	Yes	Law 97/2013

Country	Body		Do such rules exist?		Rules to ensure conflicts of interest with government	Rules to ensure conflicts of interest with political parties	Rules to ensure conflicts of interest with industry	Can other offices be held at the same time?	Others (e.g. obligation to disclose participations in companies)	Source
			Yes	No						
							Prevention of Conflict of Interest (law 9367, with its changes and additions)			
		Senior staff (Director level)	Yes		Specific law on Prevention of Conflict of Interest (law 9367, with its changes and additions)	Specific law on Prevention of Conflict of Interest (law 9367, with its changes and additions)	Specific law on Prevention of Conflict of Interest (law 9367, with its changes and additions)	No	No	www.hidaa.gov.al

Table 20 - Rules to guard against conflicts of interest – during term of office

This table shows whether there are rules to avoid conflicts of interest during the term of office.

If there is more than one organ responsible within a regulatory body (for instance one organ in charge of management questions, and one in charge of regulatory questions) please fill out for each organ, by using different rows to the extent that different rules apply.

Country	Body		Do such rules exist?		Rules to ensure conflicts of interest with government	Rules to ensure conflicts of interest with political parties	Rules to ensure conflicts of interest with industry	Source
			Yes	No				
Albania	AMA	Chairman	Yes		Law 97/2013 and the specific law on Conflict of Interest (law 9367, with its changes and additions)	Law 97/2013 and the specific law on Conflict of Interest (law 9367, with its changes and additions)	Law 97/2013 and the specific law on Conflict of Interest (law 9367, with its changes and additions)	Law 97/2013 www.hidaa.gov.al
		Board members	Yes		Law 97/2013 and the specific law on Conflict of Interest (law 9367, with its changes and additions)	Law 97/2013 and the specific law on Conflict of Interest (law 9367, with its changes and additions)	Law 97/2013 and the specific law on Conflict of Interest (law 9367, with its changes and additions)	Law 97/2013 www.hidaa.gov.al
		Senior staff	Yes		specific law on Conflict of Interest (law 9367, with its changes and additions)	specific law on Conflict of Interest (law 9367, with its changes and additions)	specific law on Conflict of Interest (law 9367, with its changes and additions)	www.hidaa.gov.al

Note: Law 97/2013 requires AMA to draft a Code of Conduct to guard rules on conflict of interest. Because of AMA's current situation, this code has not yet been prepared. However, rules dating back from 2006 are in practice still applied: Decision no. 456, dated 11.05.2006: "Rules for the prevention of the conflict of interest of the members and administration of the National Council for Radio and Television" (Rules). The Rules lay down procedures and tools for the identification and registration of conflict of interest, setting up an authority within NCRT/AMA responsible for collecting information on the private interests of the Authority's functionaries, verifying and discussing them with the respective functionary. The Rules also define the cases for limiting the private interests with the purpose of preventing the conflict of interest such as prohibiting the entering into contracts with public institutions or prohibiting receiving gifts, favours, promises or preferential treatments and other prohibitions related mainly to the participation in commercial companies operating in the media sectors and their representation or being in managing positions in NGOs. Rules on the prevention of the conflict of interest extend to the connected persons with the functionary of NCRT/AMA such as the spouse, adult children, parents and every other person acting as intermediary or exchanger in relation to the gift, favour, promise or preferential treatment.

Table 21 - Rules to guard against conflicts of interest – after term of office

This table shows whether there are clear rules to avoid conflicts of interest after the term of office.

If there is more than one organ responsible within a regulatory body (for instance one organ in charge of management questions, and one in charge of regulatory questions) please fill out for each organ, by using different rows to the extent that different rules apply.

Country	Body		Do such rules exist?		Do rules exist to prevent chairman/board members/senior staff from being employed by former regulatees?	Is a cooling-off period foreseen?	Others
			Yes	No			
Albania	AMA	Chairman	Yes		Yes	The cooling off time is 1 year based on the previous rules on the prevention of the conflict of interest. New rules need to be adopted by AMA on the basis of the new law.	
		Board members	Yes		Yes	Yes	
		Senior Staff		No	No	No	Law No 9131 dated 8.9.2003

Table 22 - Rules to protect against dismissal

This table shows the rules to protect against dismissal of the whole decision making organ, the chairman and individual members of the highest decision-making organ of the regulatory body. Please add any other comments in the row below.

Country	Body		Do such rules exist?		Who can dismiss? Specify who is involved in that stage and who has the decisive say	Grounds for dismissal listed in legal instrument?	Can the whole body be dismissed or only individual members?	Source
			Yes	No				
Albania	AMA	Chairman	√		The Assembly	Article 12, law 97/2013 a) is convicted by the court with a final decisions for having committed of a criminal offence; b) becomes permanently incapable to work due to health conditions; c) fails to take part in over 1/3 of AMA meetings within one year; ç) is certified that have been violated the obligations of the article 7 of this law (i.e. rules on conflicts of interest) d) deprived of the ability to act; dh) resignation Resignation must be submitted to AMA and sent to the Assembly as soon as possible. In case of dismissal, a substitute must be elected, following the procedure for election and for a time equal to the time that would have remained for the dismissed chair.	Dismissal of the whole body is not foreseen in the law.	Law 97/2013
		Individual board members	√		The Assembly	Article 12, law 97/2013 Same as above	Dismissal of the whole body is not foreseen in the law.	Law 97/2013

5. Financial Resources

Table 23 - Sources of income

Country	Body	State funding/broadcasting fees (max level)	Spectrum fees	Authorisation/licence fees paid by operators	Fines	Other fees, e.g., 'market surveillance fee' based on % of market players' revenues	Source
Albania	AMA	<p>√</p> <p>For additional budget requirements, the general detailed instructions for the preparation of the state budget are laid down in the Instruction of the Minister of Finance no. 8 dated 29.03.2012. The procedure is as follows:</p> <ul style="list-style-type: none"> • The Ministry of Finance decides the maximum ceiling up to which state institutions can ask for budget based on their policies for the short term. • Tables with instructions and the ceiling amounts are sent to the institutions to be completed within a set deadline. • The filled in tables are sent to the Ministry of Finance, often discussions take place between the Ministry and the applying institution until a final version is accepted by the Ministry. • All the requests collected from the institutions are put then in the draft law on budget which after approval in the government is sent to the Assembly for approval. <p>AMA has sent its request for state budget based on the law on AMA. AMA's request for state budget to cover elements of the digitalisation process (following the provisions in the Strategy) is part of the draft law on budget which is now sent by the Government to the Assembly for approval, which is still pending.</p>	√	√	20% of fines go to AMA's budget, 80% go to state budget	<p>Annual fees from market players</p> <p>Renewal of licenses</p>	<p>Law 97/2013</p> <p>Article 24/point 1</p>

Table 24 - Annual budget

This table shows who decides on the annual budget of the regulatory body and decides on adjustments to it as well as the extent to which the regulatory body is involved in these processes.

Country	Body	Who decides the annual budget?	Is the regulator involved in the process?	Rules on budget adjustment – who is involved in the process (e.g. the Assembly, government and/or industry) ?	Source
Albania	AMA	AMA approves its annual budget	Yes, it drafts and approves its own budget based on the incurred expenses from the previous year and on its planned activities.	<p>The law does not specify who is involved in the process. The law specifies that AMA approves its annual draft-budget and submits it to the Assembly.</p> <p>For additional budget requirements, the general detailed instructions for the preparation of the state budget are laid down in the Instruction of the Minister of Finance no. 8 dated 29.03.2012. The procedure is as follows:</p> <ul style="list-style-type: none"> • The Ministry of Finance decides the maximum ceiling up to which state institutions can ask for budget based on their policies for the short term. • Tables with instructions and the ceiling amounts are sent to the institutions to be completed within a set deadline. • The filled in tables are sent to the Ministry of Finance, often discussions take place between the Ministry and the applying institution until a final version is accepted by the Ministry. • All the requests collected from the institutions are put then in the draft law on budget which after approval in the government is sent to the Assembly for approval. <p>AMA has sent its request for state budget based on the law on AMA. AMA's request for state budget to cover elements of the digitalisation process (following the provisions in the Strategy) is part of the draft law on budget which is now sent by the Government to the Assembly for approval, which is still pending.</p>	Law 97/2013

Table 25 - Financial accountability – auditing

Country	Body	Is the regulatory body subject to periodic external auditing?					
		Yes/no	Periodicity	By national (state) audit office, etc.	Private audit firm	Other	Legal basis
Albania	AMA	Yes but only by the state auditing body	NA	On routine basis (every three to four years)	No	No	The State Supreme Audit Law

6. Checks and Balances

Table 26 - Formal accountability

This table shows to whom the regulatory body is accountable to and through which means (e.g. reports, the Assemblyary questions).

Country	Body	Body accountable to		Accountability means	Legal basis
Albania		The Assembly	Yes/no	<p>AMA submits an annual report to the Assembly at the beginning of each year on its annual activity on developments in the area of broadcasting and how the obligations deriving from the law are respected by the public and private networks.</p> <p>The report is submitted to the Commission for Education and Public Information Means and to the plenary sitting. The last two reports for the year 2012 and 2013 are published at AMA website (http://www.ama.gov.al/index.php?option=com_content&view=category&layout=blog&id=7&Itemid=16&lang=sq). (See also table 27 bis for an overview of the main features of the annual reports and resolution of the assembly)</p> <p>It reports on the improvements of the legal framework, licences, TV programmes, control of subject activities, problems in execution of sentences, unlicensed transmission, human resources, fines etc. After hearing in the Committee the report is submitted to the plenary sitting which at the end issues a resolution highlighting the achievements, problems and what is required from the body in the following period. The content of the resolution determines whether the Assembly approves or not the activity of the body.</p> <p>AMA also approves its annual draft-budget, reviews and approves the annual balance sheet and annual report on its activities before presenting them to the Assembly.</p>	Law 97/2013 Article 28
		Government as a whole	Yes/no	No	
		Specific ministers (e.g. Media, finance, etc.)	Yes/no	No	
		Public at large	Yes/no	No	
		Other	Yes/no If yes, specify	No	

Table 27 - Reporting obligation

This table is aimed at understanding the scope of the reporting obligation.

Please indicate the areas (scope) covered by the reporting obligation (financial auditing, performance linked to objectives/clearly defined indicators, etc.).

Please also state if a report has been disapproved in the past 10 years.

Country	Body	Report submitted to	Periodicity	Scope	Does statistical data need to be provided about own performance? Explain	Approval necessary?	Has a report been disapproved?	Link
Albania	AMA	The Assembly's Commission on Education, and Public Informing Means. Article 28	Annually	<p>Specified in art 28</p> <ul style="list-style-type: none"> • Fulfilment of regulatory functions • Financing reporting • Requirements on programs for disabled people etc. • Any other issue asked from media commission regarding their activity. <p>The report usually includes information on the developments in the area of broadcasting and how the obligations deriving from the law are respected by the public and private channels.</p>	Yes	No, the Assembly adopts a resolution	Yes (2013 report) but the resolution does not formally reject the annual report.	http://www.parlament.al/previewdoc.php?file_id=18268

Table 27 bis Annual reports and Parliament resolution –main features

This table provides an overview of the main features of the annual reports and parliament resolutions on these reports from 2009 to 2013.

Annual reports	Main elements of the annual report	Parliament resolution- Main features
2009	<ul style="list-style-type: none"> • New regulation on ethical and moral norms for the audiovisual sector • Changes to the licensing regulation • Three private digital platform licensed • Preparation work for the candidate member status • 147 decisions taken (mainly renewal of licences and new licences) • 44 new licences granted • Many fines not collected 	<ul style="list-style-type: none"> • NCRT exercised its activity in accordance with the requirements of the law nr.8410/1998 • During 2009, NCRT made a maximum effort to raise the efficiency of its performance, contributing in increasing the quality of radio and television services and in protecting the interests of operators and consumers • NCRT has conducted continuous inspection and has imposed sanctions to offenders • NCRT has prepared the draft Switchover Strategy.⁴⁶

⁴⁶http://www.parlament.al/web/29_prill_2010_Rezolute_per_vleresimin_e_veprimtarise_se_Keshillit_Kombetar_te_Radios_dhe_Te_10238_1.php

Annual reports	Main elements of the annual report	Parliament resolution- Main features
	<ul style="list-style-type: none"> • NCRT involved in 28 lawsuits • Fight against piracy is an issue, illegal signal is not detected by the monitoring of NCRT (technical capacity is not sufficient) • Work on the planning for digital networks • Work with ITU⁴⁵ 	
2010	<ul style="list-style-type: none"> • Work on the new audiovisual law • Work on the digital switch-over strategy • Vacancy of board members, decision quorums cannot be met so no decisions taken for 7 months • Mentions that since 2 years, one vacancy has not been filled • 238 decisions taken • Inspections carried out • A majority of decisions are not being executed by the Directorate General on Taxation (thereby diminishing the authority of NCRT in relation to private operators) • Involved in the drafting of the national strategy on intellectual property⁴⁷ 	<ul style="list-style-type: none"> • NCRT has made noticeable achievement in the implementation of the 2009 resolution • NCRT has played an active part in the drafting of the new law • NCRT has focused its effort on increasing the efficiency of its fight against broadcasting piracy • NCRT has conducted continuous inspection and has imposed sanctions to offenders, thereby increasing guarantees for fair competition • NCRT has worked intensively to finalize the process of the "Switchover Strategy ".⁴⁸
2011	<ul style="list-style-type: none"> • NCRT is in a difficult situation given the new technologies that are emerging on the market • NCRT has not functioned properly because of the non-appointment of board members • Piracy is a severe problem in Albania, it is an embarrassment for the country • 70 warnings and fines were issued, the fines amount to 70 million LEK • Request to the media commission to amend the law so that decisions to fine become an executive title (at the date of submitting the aual report, no follow-up had been given to this request) • Licence fees are not being paid • NCRT hopes that the adoption of the new law will strengthen its capabilities⁴⁹ 	<ul style="list-style-type: none"> • NCRT has made noticeable achievement in the implementation of the 2010 resolution requirements • NCRT has worked intensively to finalize the process of the "Switchover Strategy ", and in the drafting of the new law • NCRT has successfully monitored the election campaign for the May elections, as well as monitoring the usage of the frequency spectrum. • The NCRT has focused its effort in increasing the efficiency of its fight against broadcasting piracy. NCRT has conducted continuous inspection and has imposed sanctions to offenders, thereby increasing guarantees for fair competition.⁵⁰
2012	<ul style="list-style-type: none"> • Contribution to the strategy for the transition from analogue to digital broadcasting and to the new law on audiovisual media • Vacancies of NCRT still not filled • 175 decisions adopted, but less applications for new licences • 98% of decisions taken unanimously 	<ul style="list-style-type: none"> • NCRT has made noticeable achievement in the implementation of the requirements of Parliament, expressed in the 2011 resolution • During 2012 NCRT has made considerable efforts to achieve its objectives regarding the legal framework implementation and the performance of the institution. • The decisions and acts taken by NCRT have improved noticeably the audiovisual broadcasting landscape.

⁴⁵ http://www.parlament.al/web/Procesverbal_date_31_03_2010_10269_1.php

⁴⁷ http://ama.gov.al/index.php?option=com_content&view=article&id=171%3Aparaqitet-ne-kuvend-raporti-i-kkrt-se-per-vitin-2010&catid=14%3Adeklarata-per-shtyp&Itemid=65&lang=sq

⁴⁸ http://www.parlament.al/web/26_maj_2011_Rezolute_Per_vleresimin_e_veprimtarise_se_Keshillit_Kombetar_te_Radios_dhe_Te_12318_1.php

⁴⁹ www.parlament.al/web/pub/media_20_03_2012_11697_1.doc

⁵⁰ http://www.parlament.al/web/31_maj_2012_Rezolute_Per_vleresimin_e_veprimtarise_se_KKRT_se_per_vitin_2011_14394_1.php

Annual reports	Main elements of the annual report	Parliament resolution- Main features
	<ul style="list-style-type: none"> • 116 fines issued (more inspections carried out to track piracy) • Piracy remain a major problem • The monitoring studio cannot monitor the whole country • Public meetings and conferences organized on the impact of the digital switchover strategy • Approval of the strategy action plan • Major European exchanges during the year • Self-finances itself for the 6th consecutive year • Fines are not collected as out of 21 million LEK, only 550 thousand is voluntarily paid⁵¹ 	<ul style="list-style-type: none"> • There is a growing awareness regarding the obligations of operators to respect copyright. • NCRT continues to monitor the time made available to the political parties in news editions from the television operators, the implementation of legal requirements for the broadcasting of publicity and programming. • There is a rise in the awareness and responsibility toward program diversity and content. • NCRT has focused its effort in increasing the efficiency of its fight against broadcasting piracy. NCRT has conducted continuous inspection and has imposed sanctions to offenders, thereby increasing guarantees for fair competition.⁵²
2013	<ul style="list-style-type: none"> • Implementation of the transition strategy (which should solve the problem of unauthorized use of frequencies) • Key priority is to licence digital networks through a beauty contest procedure • Regulation drafted and consultation organized • Regulation adopted (02.07.2013) • Procedure suspended because of a court procedure • Adoption of the broadcasting code, the regulation on the criteria and procedures for granting authorizations, decisions on approval of payments for licences and authorizations, and a regulation on inspection procedures • Appeals council not been set up, so, the broadcasting code cannot be put into effect • Immediate need to fill the three vacancies of the board⁵³ 	<ul style="list-style-type: none"> • AMA has made noticeable achievements in the implementation of the requirements of Parliament, expressed in the 2012 resolution for the assessment of the institution yearly performance. • AMA has approved the changes for the regulation of the "For licensing of digital terrestrial network operators and operators of satellite radio and television broadcasting ". • AMA approved the changes for the regulation on Licensing and renewal of licenses for private radio and television broadcaster ". • During 2013 there has been noticeable growing awareness of the obligations of operators to respect the copyright of broadcasters and authors. Although the measures taken to improve the situation are few. • Protection of copyright and the fight against broadcasting piracy has not been a priority of AMA and there has been no maximum effort for cooperation with other institutions operating in this field. • Despite the efforts, AMA has not done enough in terms of content and ethics of audiovisual programs. • Cases of violation of the right to privacy have been more frequent and disturbing, and also, language abuse, violence in the screens, children dignity violation in programs with, or about children, identification of child victims in news programs and interviews, misuse of vocabulary language and some entertainment programs and broadcasting of movies and programs without warning signs. • The situation of digital terrestrial broadcasting remains completely unregulated, therefore, uncontrolled. • Local analogue broadcasting without a license to continue to operate undisturbed and continue their broadcasting as in the past years. • The regulation "On licensing of digital networks and their programs" through the procedure "beauty contest" has created great dissatisfaction through operators in the market, especially in the national historical private media. This process is blocked. • AMA is late in approving very important draft regulations (required by the new law) for the proper functioning of audiovisual media market in the Republic of Albania. • Support the project initiated by AMA for The Children Rights Protection. • Of the 19 meetings held by the AMA in 2013, in 13 of them the necessary quorum was not achieved and they were held in the presence of a member without a mandate. Therefore, the decision-making process during these meetings was not valid. • Even the AMA's Head has exercised management functions, without being a member of the institution since 24 September 2012s. Therefore, without being the Head of AMA's.⁵⁴

⁵¹ <http://ama.gov.al/images/stories/Raporti%20Vjetor%202012.pdf>

⁵² <http://80.78.70.231/pls/kuv/f?p=201:Rezolut%EB:4:02.05.2013>

⁵³ <http://ama.gov.al/images/stories/Raporti%202013.pdf>

⁵⁴ http://www.parlament.al/web/10_Korrik_2014_Rezolute_Per_vleresimin_e_veprimtarise_se_Autoritetit_te_Mediave_Audiovizi_17709_1.php

Table 28 - Auditing of work undertaken

This table shows if the regulatory body is subject to periodic external auditing, either by a private or a national audit office.

Country	Body	Is body subject to periodic external auditing					
		Yes/no	Periodicity	By public authority	By private authority	Other	Legal basis
Albania	AMA	Yes	Three to four years	The Supreme State Audit	No	No	The law on Supreme State Audit

Table 29 - Power to overturn/instruct

This table shows if (regardless of an appeal lodged against a decision) any other body can overturn the decisions of the regulator or give it instructions If you answer yes (✓) state who can overturn and give short explanation (areas, conditions if any, examples).

Country	Body	Does anybody have the power to overturn decisions of the regulator?		Ministry/Minister	Government	The Assembly	Other	Source	
Albania	AMA	Yes		No	No	No	No	The Court	
		According to the law provisions any entity subject to the decisions of AMA can submit its appeal, initially at the board, and if not accepted then at the Administrative Court of First Instance						Court	Administrative Procedure Code
		Explanation							
		Does anybody have the power to give instructions to the regulatory body?							
		No		No					
		The Regulatory body – AMA has to adhere to the legal provisions of the primary and by pass laws as well as National Strategies being adopted			No	No	No	No	No
		Are there limitations in the power to overturn (e.g. limited to legal supervision, which would exclude political supervision)?							
		NA							
	Are there limitations in the power to give instructions (e.g. limited to legal instructions which exclude instructions on political grounds)?								
	NA								

Table 30 - Number of stages in appeal procedure

The following tables are concerned with the appeal procedure relating to decisions taken in relation to the enforcement of the rules listed in the AVMS directive (eg. non-compliance with quota requirements if binding, advertising, protection of minors, etc.). The stages includes the internal stages.

Please specify clearly who will decide the appeal in case of internal appeal. We also want to know whether there is any requirement to exhaust internal appeal before turning to a court.

Country	Body	Stage	Number of stages in appeal procedure and appeal body at each stage		Do internal procedures need to be followed before external recourse?	Who has the right to lodge an appeal?	Legal basis
Albania	AMA	Internal	1	<u>Any AMA Decision can initially be challenged before the board of AMA itself</u>	Yes, according to the rules and regulations being adopted by the regulatory board, in line with the requirements stipulated on the law 97/2013, the Code of Civil Procedure and the Code of Administrative Procedure (law 8485, dated 19.05.1999)	Any legal or natural person subject to a certain decision	Law 97/2013;
			2	<i>After the Board's expression with an Individual new Decision, the case can be filed at Tirana District Court (Court of first Instance).</i>			
			3				
		External	1	<u>Administrative Court First Instance</u>		Any legal or natural person subject to a certain decision	Law of the Code of the Administrative Procedure
			2	<u>Court of Appeal</u>			
			3	<u>High Court (final Decision)</u>			

Table 31 - Does the regulator's decision stand pending appeal?

Please indicate if the situation varies according to the appeal stages.

Country	Body	Does regulator decision stand pending appeal body decision?			
		Yes	No	Yes, unless appeal body suspends it	Other
Albania	AMA			AMA decision holds (remains in effect) unless the Court decides otherwise Comment: this is not written in the Law no 97/2013.	As defined by the Code of Administrative Procedure and the law on Administrative Courts.

Table 32 - Accepted grounds for appeal

Please indicate if the situation varies according to the appeal stages.

Country	Body	Errors of fact	Errors of law (including failure to follow the due process)	Full re-examination	Other
Albania	AMA	Yes	The case is automatically sent at the Administrative Court of First Instance	Based on the legal grounds of the appeal being submitted	

Table 33 - Does the appeal body have power to replace the original decision with its own?

Please indicate if the situation varies according to the appeal stages.

Country	Body	Appeal stage	Yes	No	Comments
Albania	AMA	1.	If the case is accepted then the issue is sent for re-consideration again at the board level		No. The appeal body has the power to cancel the decision and remit it back to regulator for new decision.
Albania	AMA	2	The appeal body (the Court) has the power to change the decision		The Administrative court can change partially or entirely the administrative act (fine) or obliges the AMA to change it
		3			

7. Procedural Legitimacy

Table 34 - External advice regarding regulatory matters

This table shows if the regulatory body is able to take outside advice regarding regulatory questions.

Country	Body	Is a budget foreseen for outside advice?	If so, what is the budget/year?	Must the body respect public tender procedures?	Other requirements	Does the regulatory body de facto take external advice on a regular basis?
Albania	AMA	No	NA	Yes	Law on the public procurements	Yes, especially from international presence in the country such as the OSCE and CoE

Table 35 - Public consultations

Country	Body	Which decisions require prior public consultation?	Requirements on who must be consulted? (e.g. broadcasters, consumer organisations, academics etc.)	Consultation period	Consultation responses published		Legal basis
					Full responses (if authorised by contributor)	Summaries prepared by regulator	
Albania	AMA	Regulatory documents with considerable impact in offering the audiovisual services.	Interested stakeholders. The law does not mention any particular group.	At least 30 days	Yes	Yes	Law 97/2013

Table 36 - Publication of regulator's decisions

Country	Body	Which decisions required by law to be published?	Obligation to motivate decisions? Legal basis?	Obligation to include/publish impact assessment? Legal basis?	
				Ex ante	Ex post
Albania	AMA	<ul style="list-style-type: none"> decisions on the determination of fees/payments has to be published in the Official Journal (article 25) the complaint council must publish guidelines for AAMS Regulation on the exercise of the right to a reply(article 53) AMA must publicly announce the opening of competition for the provision of audio or audiovisual broadcasting license under this law (article 59, 60). 	No explicit obligation in the law 97/2013 to motivate decisions but there is a general principle to motivate decisions which AMA is said to follow.	No	No

Country	Body	Which decisions required by law to be published?	Obligation to motivate decisions? Legal basis?	Obligation to include/publish impact assessment? Legal basis?	
				Ex ante	Ex post
		<ul style="list-style-type: none"> • Board decisions to award licences and Licence withdrawals • Information on the audiovisual media sector in Albania, including applied technology • a part or all of the expenses and revenues of AMA (article 27) • Code and broadcasting rules (article 49) • rules and licensing procedures of audio broadcasting of community(article 58). • rules for granting licenses (article (article 59) • a special register for audio and / or visual media service providers(article 75) (law 97/2013)			

8. Cooperation

Table 37 - Cooperation with other regulatory authorities

Where in a country, there are more than one regulatory body, describe the mechanisms of cooperation between the bodies, including self and co-regulation bodies. State if the process is formalised in a cooperation agreement, or if the cooperation takes place in an ad-hoc manner (source of cooperation). Please also indicate if the regulatory body can receive any instructions from another regulatory body.

Country	Body	Describe the mechanism of cooperation with other bodies	Source and form of cooperation	Can body receive instructions from other bodies? If so, state which and explain	Comments
Albania	AMA	AKEP, AK, ZSHDA	Events and WG participation from AMA experts Memorandum of Understanding etc	NA	NA

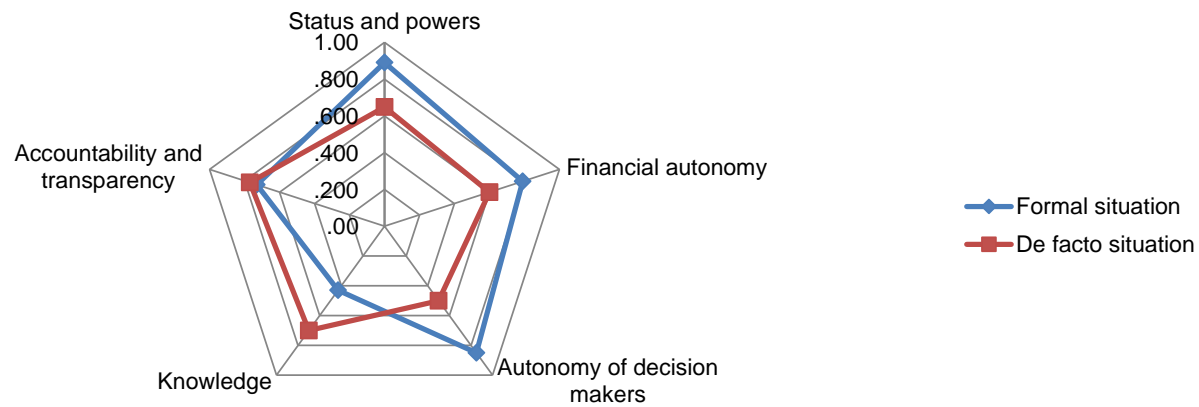
Table 38 - International cooperation

Country	Body	Does it cooperate with other national regulatory bodies in EU and international fora?	Source and form of cooperation (legal basis)	Comments
Albania	AMA	EPRA, RIRM; REFRAM; BRAF; ITU etc Participates on ITU working groups; AMA participates in international activities related to strategy and development prospects of audiovisual media, representing the Republic of Albania and it supports the participation and cooperation of public and private subjects with homologue European and world organizations in the field of audiovisual media. The AMA prepares studies with recommendations for the position of the Republic of Albania in official international negotiations on audiovisual media (article 19)	Mutual exchange of experience	Visits and exchanges among both authorities

ANNEX B: List of interviews

Stakeholder category	Date of interview	Position
Audiovisual Media Authority (AMA)	2014.09.24	Board member
	2014.09.24	Senior staff member
	2014.09.24	Senior staff member
	2014.09.25	Board member
Authority on Electronic Communication and Postal Services	2014.09.24	Senior staff member
Ministry of Innovation, Information and Communication Technologies	2014.09.25	Senior staff member
	2014.09.25	Senior staff member
Albanian Assembly	2014.09.25	Media commission representative (government party)
	2014.09.25	Media commission representative (opposition party)
Public broadcaster	2014.09.24	Senior staff member
Commercial broadcaster	2014.09.26	Senior staff member, TV Channel
	2014.09.26	Legal advisor, TV Channel
Cable operator	2014.09.24	Senior staff member
Journalists & academics	2014.09.25	Union activist
	2014.09.27	Academic
	2014.10.03	Academic
International organizations	2014.09.25	OSCE representative

ANNEX C: THE RANKING TOOL	Albania (Country)
	AMA (Body)
	(Evaluator)
	October 2014 (Date)



	Formal situation	De facto situation
Status and powers	0.890	0.648
Financial autonomy	0.790	0.600
Autonomy of decision makers	0.850	0.500
Knowledge	0.430	0.700
Accountability and transparency	0.730	0.770

Formal situation

Status and powers

points (out of):

89

100

What is the legal structure of the regulatory body?

- A separate legal entity/autonomous body
- Not a separate legal entity/autonomous body but existence of sufficient safeguards (Chinese walls)
- Not a separate legal entity/autonomous body and no Chinese walls

1	12	12
12		
6		
0		

How is independence of the regulatory body guaranteed?

- In the constitution / high court decision
- In an act of Parliament
- In a secondary act
- It is not recognised

2	7	9
9		
7		
5		
0		

What type of regulatory powers does the regulatory body have?

- Policy implementing powers and third party decision making powers
- Third party decision making powers only
- Consultative powers only / No third party decision making powers

1	9	9
9		
3		
0		

Are these regulatory powers sufficiently defined in the law?

- Yes
- No

1	3	3
3		
0		

Does the regulatory body have supervision powers?

Yes

No

1

13

13

13

0

<p>Does the regulatory body have information collection powers towards regulatees (eg. regarding quotas)? _____</p> <p><input checked="" type="radio"/> Yes</p> <p><input type="radio"/> No</p>	<p>1 6 0</p>	<p>6</p>	<p>6</p>
<p>Can the regulatory body be instructed (other than by a court) in individual cases/decisions or in relation to its _____ policy implementing powers (notwithstanding possible democratic control mechanisms such as by parliament)?</p> <p><input checked="" type="radio"/> No</p> <p><input type="radio"/> Yes, by the parliament</p> <p><input type="radio"/> Yes, by the government/minister in limited cases</p> <p><input type="radio"/> Yes, by the government/minister in many cases</p>	<p>1 13 4 3 0</p>	<p>13</p>	<p>13</p>
<p>Can the regulatory body's decisions be overturned (other than by a court/administrative tribunal)? _____</p> <p><input checked="" type="radio"/> No</p> <p><input type="radio"/> Yes, by the parliament</p> <p><input type="radio"/> Yes, by the government/minister in limited cases</p> <p><input type="radio"/> Yes, by the government/minister in many cases</p>	<p>1 13 4 3 0</p>	<p>13</p>	<p>13</p>
<p>What type of enforcement powers does the regulatory body have? _____</p> <p><input checked="" type="radio"/> Availability of a range of proportional enforcement powers (warnings, deterrent fines, suspension/revocation of licence)</p> <p><input type="radio"/> Not all range of enforcement powers available, but power to impose deterrent fines</p> <p><input type="radio"/> No power to impose deterrent fines</p>	<p>1 13 10 0</p>	<p>13</p>	<p>13</p>

Does the regulatory body have sufficient legal power to decide on internal organisation and human resources?

- Yes
- No

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Financial autonomy

points (out of): 79 100

How is the budget of the regulatory body determined?

- By the regulatory body only
- By the parliament with involvement of regulatory body
- By the government/minister with involvement of regulatory body
- No involvement of regulatory body

2 29 40
40
29
26
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Does the law clearly specify the budget setting and approval procedure?

- Yes
- No

1 17 17
17
0

What are the sources of income of the regulatory body?

- Fees levied from industry - own funds, spectrum fees
- Mixed fees (industry and government funding)
- Government funding only

2 20 30
30
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Does the law clearly specify the source of funding?

<input checked="" type="radio"/> Yes	
<input type="radio"/> No	

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13
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13

Autonomy of decision makers

points (out of): 85 100

What is the nature of the highest decision making organ of the regulatory body? _____

- A board
- An individual

1 10 10
10
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Who has a decisive say in nomination/appointment of the regulatory body's highest decision making organ? _____

- Mix between parliament / government / civil society / professional associations
- Ruling and opposition parties involved
- Parliament and government
- Parliament and prime minister/president
- Parliament and political parties
- Parliament only
- Government only
- President/prime minister/minister only
- Not applicable/other procedures

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What is the term of office of the chairman/board members? _____

- A fixed term of office of a certain duration (above the election cycle)
- A fixed term of office (lower or equal to the election cycle)
- Not specified

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7
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Does the term of office coincide with the election cycle? _____

<input type="radio"/> No <input checked="" type="radio"/> Yes/not specified	2 10 0	0	10
<p>Does the law foresee that board members are appointed at different points in time (staggered appointment)?</p> <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Not applicable (no board members)	1 7 0 0	7	7
<p>What is the situation regarding renewals of board members/chairman?</p> <input checked="" type="radio"/> Renewal not possible / limited to one or two instances <input type="radio"/> Allowed in more than two instances / not specified <input type="radio"/> Not applicable (no fixed term)	1 7 0 0	7	7
<p>Are there rules on incompatibility at the nomination/appointment stage of the members of the board/the chairman so that the highest decision making organ ...</p> <input checked="" type="radio"/> cannot be composed of members of government/parliament/industry <input type="radio"/> can be composed of one or two of the following groups: government/parliament/industry <input type="radio"/> can be composed of members of government/parliament/industry	1 10 3 0	10	10
<p>Incompatibility rules extended to relatives?</p> <input checked="" type="radio"/> Yes	1 1	1	1

<input type="radio"/> No	0		
<input type="radio"/> Not applicable (no incompatibility rules)	0		
Requirement to act in an independent capacity?			
<input checked="" type="radio"/> Yes	1	3	3
<input type="radio"/> No	3		
<input type="radio"/> No	0		
Are there rules preventing conflicts of interest of chairman/board members during their term of office?			
<input checked="" type="radio"/> Yes	1	3	3
<input type="radio"/> No	3		
<input type="radio"/> No	0		
Is there a period during which former board members are limited to work for the regulatees (so-called cooling-off period)?			
<input checked="" type="radio"/> Yes	1	3	3
<input type="radio"/> No	3		
<input type="radio"/> No	0		
How can the chairman / individual board members be dismissed?			
<input type="radio"/> Dismissal not possible	2	13	13
<input checked="" type="radio"/> Dismissal possible only for objective grounds listed in the law (no discretion)	13		
<input type="radio"/> Objective grounds listed in the law, but margin of discretion. Power of dismissal given to the regulator / the judiciary.	13		
<input type="radio"/> Objective grounds listed in the law, but margin of discretion. Power of dismissal not given to the regulator / the judiciary.	9		
<input type="radio"/> Objective grounds listed in the law, but margin of discretion. Power of dismissal not given to the regulator / the judiciary.	7		
<input type="radio"/> Dismissal possible, but grounds not listed in the law, or no rules on dismissal	0		
Dismissal of entire board			

	1	13	13
<input checked="" type="radio"/> Not possible to dismiss entire board	13		
<input type="radio"/> Entire board can be dismissed	0		
<input type="radio"/> Not applicable (no board)	0		

Knowledge

points (out of): 43 100

Are requirements for professional expertise (i.e. knowledge/experience) specified in the law? For board members/chairman?	1	19	19
<input checked="" type="radio"/> Yes	19		
<input type="radio"/> No	0		

Are requirements for professional expertise specified in the law? For senior staff?	2	0	19
<input type="radio"/> Yes	19		
<input checked="" type="radio"/> No	0		
<input type="radio"/> Not applicable (no senior staff)	0		

Are requirements for qualifications (eg. education, diploma requirements) specified in the law? For board members/chairman?	2	0	19
<input type="radio"/> Yes	19		
<input checked="" type="radio"/> No	0		

Are requirements for qualifications specified in the law? For senior staff?	2	0	19
<input type="radio"/> Yes	19		

<input checked="" type="radio"/> No <input type="radio"/> Not applicable (no senior staff)	0	0	
<p>Does the law foresee that the regulatory body can seek external advice?</p> <input checked="" type="radio"/> Yes <input type="radio"/> No	1 12 0	12	12
<p>Is the regulatory body legally obliged to cooperate with other national or foreign regulators and does it have the required mandate to do so?</p> <input checked="" type="radio"/> Yes <input type="radio"/> No	1 12 0	12	12
Accountability and transparency	points (out of):	73	100
<p>Does the law specify that the regulatory body's decisions need to be published?</p> <input checked="" type="radio"/> Yes <input type="radio"/> No	1 12 0	12	12
<p>Does the law specify that the regulatory body's decisions need to be motivated?</p> <input type="radio"/> Yes <input checked="" type="radio"/> No	2 12 0	0	12
<p>Is the regulatory body required by law to organise consultations?</p>			

<p><input checked="" type="radio"/> Yes, in all cases (which have a direct or indirect impact on more than one stakeholder)</p> <p><input type="radio"/> Yes, but only in cases specified by law</p> <p><input type="radio"/> No</p> <p><input type="radio"/> Not applicable</p>	<p>1</p> <p>8</p> <p>4</p> <p>0</p> <p>0</p>	<p>8</p>	<p>8</p>
<p>Is the regulatory body required to organise these consultations as open or closed consultations?</p> <p><input checked="" type="radio"/> Open consultations</p> <p><input type="radio"/> Closed consultations</p> <p><input type="radio"/> No consultations required</p>	<p>1</p> <p>8</p> <p>4</p> <p>0</p>	<p>8</p>	<p>8</p>
<p>Is the regulatory body subject to a reporting obligation and is it specified in law?</p> <p><input type="radio"/> Yes, the reporting obligation is specified in law and is addressed to the public at large (including public bodies)</p> <p><input checked="" type="radio"/> Yes, the reporting obligation is specified in law and is limited to public bodies only (e.g. Parliament and/or government)</p> <p><input type="radio"/> No</p>	<p>2</p> <p>12</p> <p>9</p> <p>0</p>	<p>9</p>	<p>12</p>
<p>Does the law specify a mechanism of ex-post control by a democratically elected body (e.g. approval of annual report by the parliament or a political/public debate with participation of the body)?</p> <p><input checked="" type="radio"/> Yes</p> <p><input type="radio"/> No</p>	<p>1</p> <p>16</p> <p>0</p>	<p>16</p>	<p>16</p>
<p>Is an appeal procedure against the decisions of the regulatory body foreseen in the law?</p>	<p>1</p>	<p>12</p>	<p>12</p>

<input checked="" type="radio"/> Yes, in all circumstances and before an external court/administrative tribunal	12
<input type="radio"/> Yes, in all circumstances, but only before an independent body (with no further appeal before a court/admin tribunal)	9
<input type="radio"/> Yes, but in some circumstances only and before an external court/administrative tribunal	6
<input type="radio"/> Yes, but in some circumstances only, and only before an independent body (with no further appeal before a court/admin trib)	4
<input type="radio"/> No	0

What are the accepted grounds for appeal?			
<input checked="" type="radio"/> Errors of fact and errors of law (ie. the merits)	1	8	8
<input type="radio"/> Errors in law only	8		
<input type="radio"/> Errors in fact only	5		
<input type="radio"/> Not applicable (no appeal procedure exists)	3		
	0		

Is external auditing of the financial situation foreseen in the law?			
<input type="radio"/> Yes	2	0	12
<input checked="" type="radio"/> No	12		
	0		

De facto situation

Status and powers

points (out of):

59

91

Has the act on the status of the regulatory body been modified in a way that has reduced its tasks and powers?

- No
- Yes
- Not applicable (not set up as separate body)

1	9	9
9		
0		
0		

Has the governing law of the regulatory body been modified to influence a particular case/conflict?

- No
- Yes

1	9	9
9		
0		

Have the formally granted powers (policy implementing powers and third party decision making powers, excluding sanctions) been used?

- Yes, for all types of powers and in all instances
- Yes, but not for all types of powers or in all instances
- No

2	5	10
10		
5		
0		

How does the regulatory body supervise whether the rules are correctly applied by the regulatees?

- Through monitoring according to a set strategy and/or methodology

1	9	9
9		

Through adhoc monitoring/monitoring after complaints, with concrete procedures to follow complaints

5

Through adhoc monitoring/monitoring after complaints, without concrete procedures to follow complaints

0

Has the regulatory body received instructions by a body other than a court in individual cases/decisions or in relation to its policy implementing powers in the last 5 years?

No

1

9

9

Yes

9

0

Have the decisions of the regulatory body been overturned by a body other than a court/administrative tribunal in the last 5 years?

No

1

9

9

Yes

9

0

Has the regulatory body taken adequate measures in case of material breach by an AVMS/TVwF provider?

Yes

2

0

9

No

9

0

Not applicable (no material breach has occurred)

0

Has the regulatory body taken adequate sanctions in case of continued breach by an AVMS/TVwF provider?

Yes

2

0

9

No

9

0

Not applicable (no continued breach has occurred)

0

In case of several breaches by different AVMS/TVwF providers: Have even-handed/comparable measures been taken against all providers?

- Yes
- No
- Not applicable (no breaches by different providers has occurred)

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9
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Does the regulatory body effectively decide on internal organisation and human resources?

- Yes
- No

2 0 9
9
0

Does the regulatory body have a sufficient number of staff to fulfill its tasks and duties?

- Yes
- No

1 9 9
9
0

Financial autonomy

points (out of): 60 100

Is the regulatory body's budget sufficient to carry out its tasks and duties?

- Yes
- No

2 0 40
40
0

Is the regulatory body's budget sufficiently stable over time?

1 20 20

Yes

No

20
0

Does the regulatory body have sufficient autonomy to decide for which tasks it spends its budget?

Yes

No

1 20 20
20
0

Is the regulatory body under pressure to compensate a lack of stable funding from the state or from the market, by imposing fines or requesting ad-hoc financial contributions from the state?

No

Yes

Not applicable

1 20 20
20
0
0

Autonomy of decision makers

points (out of): 44 88

Composition of the highest decision making organ (board or council) of the regulatory body

Are political majorities or political power structures reflected in the composition of the highest decision making organ?

No

Yes

Impossible to say

2 0 19
19
0
0

Have there been cases where the appointer failed to appoint the nominated candidate?

<input type="radio"/> No	3	0	0
<input type="radio"/> Yes	12		
<input checked="" type="radio"/> Not applicable (no nomination stage/no obligation to appoint nominees)	0		

Have board members/chairman resigned before their term of office due to political conflicts?

<input checked="" type="radio"/> No	1	19	19
<input type="radio"/> Yes	19		
<input type="radio"/> Yes	0		

Have one or more board members been dismissed for non-objective grounds in the past 5 years?

<input type="radio"/> No	2	0	25
<input checked="" type="radio"/> Yes	25		
<input checked="" type="radio"/> Yes	0		

Has the entire board been dismissed or otherwise replaced before the end of term in the last 5 years?

<input checked="" type="radio"/> No	1	25	25
<input type="radio"/> Yes	25		
<input type="radio"/> Not applicable (not possible)	0		

Knowledge

points (out of): 70 100

Do board members/chairman have adequate qualifications and professional expertise to fulfill the duties of the regulatory body?

<input type="radio"/> Yes	2	15	30
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<input type="radio"/> Yes, all <input checked="" type="radio"/> Yes, a majority <input type="radio"/> No	30 15 0		
<p>Does senior staff have adequate qualifications and professional expertise to fulfill the duties of the regulatory body?</p> <input type="radio"/> Yes, all <input checked="" type="radio"/> Yes, a majority <input type="radio"/> No <input type="radio"/> Not applicable (no senior staff)	2 30 15 0 0	15	30
<p>Does the regulatory body seek external advice when needed?</p> <input checked="" type="radio"/> Yes <input type="radio"/> No	1 20 0	20	20
<p>Does the regulatory body cooperate with other national/foreign regulators in charge of audio-visual media regulation?</p> <input checked="" type="radio"/> Yes <input type="radio"/> No	1 20 0	20	20
Accountability and transparency		points (out of):	77 100
<p>Does the regulatory body publish its decisions (together with motivations)?</p> <input type="radio"/> Yes, all decisions (and motivations) are published	2 10	5	10

<input checked="" type="radio"/> Yes, but only some decisions are published <input type="radio"/> No	5	0		
<p>Where are the decisions published?</p> <input checked="" type="radio"/> On the website (and eventually other official channels) <input type="radio"/> In the official journal or other official channels (but not on the website) <input type="radio"/> Not applicable (decisions are not published)	1	6	6	6
<p>Does the regulatory body organise consultations?</p> <input checked="" type="radio"/> Yes, in all cases (which have a direct or indirect impact on more than one stakeholder) <input type="radio"/> Yes, but only in cases specified by law <input type="radio"/> No	1	8	8	8
<p>Does the regulatory body organise these consultations as open or closed consultations?</p> <input checked="" type="radio"/> Open consultations <input type="radio"/> Closed consultations <input type="radio"/> No consultations	1	7	7	7
<p>Does the regulatory body publish responses to consultation?</p> <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Not applicable (no consultations are organised)	1	6	6	6

<p>Does the regulatory body explain the extent to which responses are taken into account in final decisions?</p> <p><input checked="" type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p><input type="radio"/> Not applicable (no consultations are organised)</p>	<p>1</p> <p>9</p> <p>0</p> <p>0</p>	<p>9</p>	<p>9</p>
<p>Does the regulatory body publish periodical reports on its activities?</p> <p><input checked="" type="radio"/> Yes</p> <p><input type="radio"/> No</p>	<p>1</p> <p>9</p> <p>0</p>	<p>9</p>	<p>9</p>
<p>Has the regulatory body been assessed / controlled by a democratically elected body in the last five years?</p> <p><input checked="" type="radio"/> Yes</p> <p><input type="radio"/> No</p>	<p>1</p> <p>9</p> <p>0</p>	<p>9</p>	<p>9</p>
<p>Have there been cases where the report (or other form of approval by a democratically elected body) has been refused in the last 5 years?</p> <p><input checked="" type="radio"/> No</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> Not applicable (no requirement to have a report approved by an external body)</p>	<p>1</p> <p>9</p> <p>0</p> <p>0</p>	<p>9</p>	<p>9</p>
<p>Have the decisions of the regulatory body been overturned by a court/administrative tribunal in a significant number of cases?</p>	<p>2</p>	<p>0</p>	<p>9</p>

No
 Yes
 Not applicable (not possible)

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Is the regulatory body subject to periodic external financial auditing? _____

Yes
 No

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0

Has auditing revealed serious financial malpractices? _____

No
 Yes
 Not applicable (not subject to periodic external auditing)

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