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THE LEGAL REGIME OF ELECTRONIC MEDIA IN THE LEGAL ORDER OF THE REPUBLIC OF SERBIA**

Abstract: *Different legal regimes of public information in the Republic of Serbia and the differences between the existing media have not been sufficiently analyzed in legal literature. From the positive law perspective, media differ by the legal regime of their structural organisation, activities and control, as well as by public information activities they perform. The media are subjects of a territorial community which have a duty to communicate their program content in an objective, impartial and truthful manner. Consequently, all media (both commercial and non-commercial ones) primarily serve general and public interests. The only difference is the content of public interest in individual media. In the order of a legal state (Rechtsstaat), the greatest impact is attributed to electronic media, especially television stations with state-wide (national) coverage as media aimed at accomplishing special goals in the field of public information. TV stations with national coverage primarily aim to accomplish general interests. They are bound by the special content of the public interest and, thus, they have a significantly wider scope of duties than other televisions. Unfortunately, the current circumstances in the field of public information in the Republic of Serbia prove otherwise.*

Keywords: *electronic media, televisions with national coverage, public service broadcasters, democratic society, culture promotion.*

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1. Introduction

The legal order of the Republic of Serbia comprises systemic and special laws. Systemic laws are basic (generic, organic) laws which regulate an area of the legal order in a teleologically comprehensive (integral) manner, while special laws cannot do the same. In the Serbian legal order, the Public Information and Media Act¹ is a systemic (basic) media law which regulates the area of public information in a teleologically comprehensive manner. In addition to this basic legislative act, the Serbian legal order encompasses several special legislative acts regulating the legal regime of specific types of media, such as the Electronic Media Act² and the Public Media Services Act,³ They are special media laws, while the Public Information and Media Act is a general media law.

The Public Information and Media Act (the PIM Act) is a systemic (basic) law in the field of public information which regulates: (1) the positive law concept of the media; (2) the basic legal principles of public information; and (3) the general legal regime (basic legal institutes) of public information as an area of the legal order. Special media laws must comply with the basic media law in terms of the fundamental legal principles and basic public information institutes, which is in compliance with the constitutional principle of the unitary legal order.⁴ Legal principles, as teleological legal positions, express the basic legal ideas and guide legal awareness in the field of public information, defining the legal ground of legal norms as regulatory legal positions and the legal grounds for the activities of the media as subjects of the legal order. The legal norms contained in media

1 The Public Information and Media Act, *Official Gazette of the RS*, no. 83/2014, 58/2015 and 12/2016

2 The Electronic Media Act, *Official Gazette of RS*, no. 83/2014 and 6/2016.

3 The Public Media Services Act, *Official Gazette of RS*, no. 83/2014, 103/2015 and 108/2016.

4 From the positive law perspective, the doctrine on differentiation between systemic (generic, basic) and subject-specific laws derives from the Constitutional Court of the Republic of Serbia (hereinafter: the Constitutional Court) which specified its legal position on the unitary legal order as a constitutional principle in its Decision IU-z-231/2009 dated 22 July 2010 (*Official Gazette of RS*, no. 89/10) as follows: "Starting from the provisions of Article 4 (para. 1) of the Constitution which defines the principle of unitary legal order as one of the basic principles that the constitutional law system of the Republic of Serbia rests upon, the Constitutional Court points out that, even though the existing legal system does not differentiate between the so-called organic, general or basic laws that have stronger legal power than other "ordinary" subject-specific laws, which ultimately implies that the Constitutional Court is not authorized (under the provision of Article 167 of the Constitution) to assess the mutual compatibility of laws, the constitutional principle of the unitary legal order dictates that the basic principles and legal institutes envisaged in legislative acts which systemically regulate an area of social relations should be observed in subject-specific legislative acts as well, except if the systemic law explicitly prescribes the possibility of regulating such issues in a different manner." (Prca, 2018a: 103-126).

laws regulate the course, scope and reach of the legal regulation and activities of specific types of media, as well as the authorizations and legal obligations of the media as subjects of the legal order (Prica, 2018b: 135-180).

The PIM Act is the basic media law which guarantees the freedom of information and the existence of the public sphere as preconditions for a democratic society in the order of a legal state (*Rechtsstaat*, state of law). It protects media pluralism, the public nature of information on the media, the freedom of public criticism of public servants and political appointees, and prescribes the journalists' duty of care for the purpose of establishing unconditional validity of objective, impartial and truthful public information. Moreover, in terms of public information activities, this basic media law takes into account the interests and needs of specific vulnerable subjects in the territorial community, such as minors, people with disabilities and national minorities. The basic principles of public information should be supplemented by special legal guarantees within the scope of public information system, which are envisaged in the PIM Act, such as: the presumption of innocence, ban on hate speech, ban on public display of pornography, respect for personal dignity, privacy and private domain in general. Furthermore, the PIM Act defines the primary objectives in the field of public information which, along with the aforesaid principles of public information, represent the basic content of public interest, the starting point and foundation for building the edifice of public information.

As a systemic law, the Public Information and Media Act defines the concept of the media by enumerating the features that are included in or excluded from the positive law concept of the media. In the positive law sense, one of the essential features of the media is a set of media content conceptualized by the editorial staff, as a result of which the internal organizational structure of the media implies relations between media publishers/broadcasters, editors-in-chief, and journalists. Nevertheless, one should bear in mind that internal organizational structure is not identical for all media. Unlike the printed media and a vast majority of electronic media (where the internal organizational structure implies relations between media publishers, editors-in-chief and journalists), the republic and provincial media services (as electronic media) have their own managing bodies (the board of directors, the general manager, and the program council), which entails their special status. Additionally, the legal regime of supervision is not identical for all media. For instance, the Regulatory Authority for Electronic Media (RAEM) supervises the work of electronic media. However, in case of public media services, the RAEM supervision activities have been reduced to a minimum, and they have been completely excluded in case of printed media. From the perspective of the positive law, it means that the media are differentiated on the basis of the legal regime of their organizational

structure, activities and supervision, which ultimately define the type of media. Thus, the Public Information and Media Act is not only the basic but also the only legislative act applicable to printed media, which regulates all aspects of their operation. On the other hand, the legal regime pertaining to electronic media has been regulated by the Electronic Media Act, while the legal regime governing public media services (as electronic media) has been regulated by the Public Media Services Act. It has generated the need to establish several legal regimes governing the media and insist on the mutual legal correlation between the enacted media laws (the systemic and special legislative acts). In that context, it would be of crucial importance to determine the criteria for establishing the media legislation system by defining the relations between the systemic (basic) media law and special media laws.

In addition to defining the concept of the media and legal principles, the Public Information and Media Act regulates the general legal regime which applies to all media, including as follows: (1) the relationship between publishers, editors-in-chief, and journalists; (2) media register; (3) basic information about the media (imprint, short imprint, etc.); (4) distribution and storage of media content; (5) information retraction and information correction; (6) liability for damage, and (7) co-financing the projects in the field of public information.

All provisions of the Public Information and Media Act are directly applied to all media, while special laws may prescribe specific legal regimes for a particular type of media, provided that the specific legal regimes are in compliance with the provisions of the PIM Act. In the Republic of Serbia, the two special media legal regimes have been established for electronic media and public media services as a type of electronic media. The purpose of these special media legal regimes is to strengthen and expand the implementation of the general legal regime of public information. Consequently, it would be ideal to establish circular connection between the special legal regimes and the general legal regime by ensuring full compliance of all media laws in the media legislation system.

The Electronic Media Act regulates the establishment of electronic media, their status, scope of activities and supervision. The primary feature of the legal regime governing electronic media are extensive authorizations of the Regulatory Authority for Electronic Media (RAEM), which performs regulatory, supervisory and quasi-judicial tasks. The special legal regime envisaged in the Electronic Media Act should fully comply, in all aspects, with the general legal regime envisaged in the Public Information and Media Act. Depending on the scope of broadcasted media content, the electronic media can be classified into: a) media with national (state-wide) coverage, and b) regional (local, non-central) media. Television stations that broadcast TV programs on the entire territory of the country have a special legal status.

In a legal state, the greatest impact is attributed to electronic media, especially television stations with state-wide (national) coverage and the so-called public media services, as media which should accomplish special goals in the field of public information. In the Serbian legal system, the status and activities of public media services are regulated by the Public Media Services Act, which has the status of a special legislative act in relation to the Public Information and Media Act as the general legislative act. Moreover, considering that public media services are a type of electronic media, the Electronic Media Act is regarded as a hierarchically higher (general) legislative act in relation to the Public Media Services Act.

Television stations with state-wide (national) coverage primarily aim to accomplish general interests; they are bounded by the special content of the public interest and, thus, they have a significantly wider scope of duties than other televisions. Unfortunately, the current circumstances in the field of public information in the Republic of Serbia prove otherwise.

2. Legal Regime of Electronic Media

The media are subjects of territorial community which have a duty to inform the public in an objective, impartial and truthful manner. Given that public information is regarded as a common good, all media (both commercial and non-commercial ones) primarily serve general and public interests. All media are subject to public interest, but the content of public interest differs in some media. Therefore, the term “public media service” is quite meaningless, having in mind that all media are public services which are subject to the public law regime and public interest. No media can be excluded from the scope of public interest; only the content of public interest as a regulatory determinant can be different, depending on the type of media. Moreover, all media are public services because they perform activities which are crucial for the public interest. With this in mind, instead of using the phrase “public media service” which is obviously a result of uncritical borrowing of foreign terms, it would be more appropriate to use the terms “republic broadcasting service” and “provincial broadcasting service” (Prica, 2021a: 388-393).

In the organic sense, electronic media are providers of audio and audio-visual content. The entities that have the properties of providers of electronic media content (in the organic sense) are: 1) public service broadcasting institutions which act in compliance with the Public Media Services Act; 2) commercial providers of electronic media content; and 3) providers of electronic media content in the civil sector. In terms of their function, program content broadcasted via electronic media may be characterized as follows: (1) general media content

encompassing informational, educational, scientific, sports, entertainment (etc.) program content; (2) specialized media services which include program content of the same type (sports, cultural, music, educational, children, entertainment, etc.); and (3) commercial content, completely aimed at selling products via TV or self-promotion.

The legal regime governing electronic media is different from the legal regime governing printed media. It primarily refers to the fact that the status and activities of electronic media are regulated and supervised by the Regulatory Authority for Electronic Media (REAM), as an independent subject in institutional order of the Republic of Serbia. This body is also authorized to make decisions on issuing licenses and permissions for establishing electronic media, except for the electronic media which may be established without obtaining a license or permission. Here, we may observe the difference between the legal regime governing the registration of printed media and the legal regime governing the establishment of electronic media, which confirms the distinctiveness of the legal regime pertaining to electronic media.

The Regulatory Authority for Electronic Media (RAEM) is an independent organization. As such, it is not supervised by the Government or any state administration authority but the activities of such independent bodies may be controlled by the National Assembly and the courts. On the other hand, autonomous institutions and bodies are subject to the Government supervision. This shows the difference between independence and autonomy as two distinctive features of the legal status of the institutions and bodies in the legal order. Having in mind that these concepts are mutually exclusive and that a body cannot be both independent and autonomous at the same time, it is rather baffling that the Electronic Media Act defines the Regulatory Authority for Electronic Media as “an independent and autonomous organization”. Therefore, the legal definition is contradictory (like oxymorons “cold fire” or “wooden iron”). This RAEM authorities are so extensive that we can freely say that that the Regulatory Authority for Electronic Media performs regulatory, supervisory and quasi-judicial tasks, which is a legal curiosity. This Regulatory Authority (RAEM) performs continuous supervision over the electronic media by controlling the operations of electronic media content providers in terms of consistent application and development of the principles governing the relations in the field of electronic media, as well as in terms of meeting the requirements for providing media content, fulfilling the obligations of media content providers envisaged in the Electronic Media Act and by-laws, and taking the prescribed measures without delay. In particular, the Regulatory Authority (RAEM) is obliged to ensure that media content providers comply with the obligations referring to program contents envisaged in the Electronic Media Act and conditions under which the license

for their operation has been issued, especially in terms of type and nature of the program. Moreover, the Regulatory Authority for Electronic Media has the authority to initiate action and exercise meritory control.

In a legal state, different legal goods and legal interests are dynamic expressions of legal goods (Prica, 2019: 597-639). In a legal order, individual goods (freedom, private property, human dignity, etc.) which belong to humans/citizens as subjects of the legal order are the properties of legal goods. Moreover, the common goods (of the state as a territorial community) are also the properties of legal goods. Legal interests are dynamical expressions of legal goods in the legal order. For example, public health is a common good clause, and preventing the spread of the COVID-19 pandemic is an example of a common interest as a expression of a dynamic interest of common goods. On the other hand, an individual's health is an example of an individual legal good, while the individual's need to protect personal health information and prevent the disclosure of such data to third parties is an example of a private interest as a dynamic expression of an individual legal good in the legal order of a state of law. Therefore, the order of a legal state encompasses common interests as dynamic expressions of common goods and private interests as dynamic expressions of legal goods of an individual as the subject of the legal order. Common and private interests are substantial categories in the order of a legal state.

Unlike common and private interest as substantial categories, public interest is a relational category. Public interest is a regulatory determinant in the order of a legal state, resulting from the need to legally regulate the relations between different legal goods and interests. In the order of a legal state, public interest encompasses both common and private interests. It is important to emphasize that a public interest is not equivalent to a common interest; thus, a public interest cannot be equaled with a common interest. In the above example referring to public health and individual's health condition, public interest in obtaining public information would imply establishing a balance between the right of all to be informed about COVID-19 and the right of an individual to prevent the disclosure of his/her personal health information to third parties.

Freedom of the media also has the character of a legal good in the order of legal state. It is anchored between general and private interests, common goods and individual legal goods, the interventionism of state authorities and the autonomy of civil society, and the institutional order of public authority and the institutional order of the territorial community. Media law is defined as a system which comprises teleological, systemic and regulatory legal positions. Public information is based on the public interest as a regulatory, ethical and democratic determinant; hence, it means that media activities are based on written law as

a regulatory determinant, the public as a democratic determinant, and virtues as an ethical determinant of public interest.⁵

The presence of various legal regimes governing specific media is the result of the fact that there are different goals which have to be achieved within the public information system as an area of the legal order. Consequently, legal regimes which have been regulated by special media laws reflect the specificity of the content of public interest in specific types of the media. The basic content of the public interest within public information has been determined in the systemic (basic) media law, on the basis of which the legislator may develop special legal regimes of public information regulating the activities of specific media. In this context, one of the most prominent examples refers to public broadcasting services and televisions with national (state-wide) coverage as electronic media with particular duties within the public information system. The core public interest in the area of public information is stipulated in Articles 15 and 16 of the Public Information and Media Act, which was the starting point for determining the content of public interest which would be applied to televisions with national coverage and public broadcasting services in line with the special legislation.

Televisions with state-wide (national) coverage are subject to the legal regime regulated by the Electronic Media Act on and the Rulebook on Minimum Requirements for providing media services and Decision-making Criteria in the process for issuing a license for providing media services based on public competition (2016).⁶ In terms of program requirements, the Rulebook establishes the minimum requirements that should be met by a television aspiring to obtain the status of the media with national coverage. These requirements entail the obligation to broadcast the following contents: 1) information program; 2) scientific-educational program; 3) cultural-artistic program; 4) documentary program; 5) children and teenage programs (Article 11 of the Rulebook). Televisions with national coverage are bounded by the special content of the public interest; thus, they have broader obligations than other televisions, except for

5 Today, the primary issue is not how to safeguard the freedom of the media from state interference but how to ensure that the media serve to uphold and develop the state governed by the rule of law. "Nowadays, the traditional meaning of freedom of the press, which is limited to protecting the press from the state abuse of power, is no longer sufficient. According to the traditional conception, as noted by Maurice Duverger, freedom of the press resembles freedom in the jungle: all animals are protected from being hunted (by the state) but who will protect small and medium-size animals from tigers or elephants (financially powerful individuals)? The press is not free if it is protected only from the state but not from the impact of financial tycoons." (Marković, 2020: 480).

6 Rulebook on Minimum Requirements for providing media services and Decision-making Criteria in the process of issuing a license for providing media services based on public competition, *Official Gazette of the RS*, no. 46/2016.

public media services with the highest obligations in the field of public information. By performing their primary activities, televisions with national coverage should ensure the attainment of special interests in the area of public information and provide general and comprehensive media services including informative, educational, cultural and entertainment contents for all audiences.

In view of the foregoing, the essence of subject-specific legal regimes is to strengthen and enhance the implementation of general legal regime of public information, whereby it would be ideal to establish circular connection between the special legal regimes and the general legal regime by ensuring full mutual compliance of all media laws in the media legislation system.

The public media service is an independent legal entity which, by performing its primary business activity, enables the achievement of special interests in the field of public information and provides general and comprehensive media services which include informative, educational, cultural and entertainment content intended for all sections of society. In terms of their legal status, public media services differ from other electronic media because they have the status of a legal entity and the status of the holder of public authorities. Unlike public media services, other electronic media have neither the status of a legal entity nor the status of a public authority holder. Namely, the status of a public authority holder is granted to the subjects of the territorial community that perform the activities of substantial public interest, which is the primary reason for entrusting such subjects with specific prerogatives of public governance. Given the fact that these subjects are not public governance holders, they are called “public authority holders” (as the term “public authorities” seems to be more suitable for denoting public governance prerogatives). Thus, the legislator distinguished between the public governance authorities and territorial community subjects that are not public governance holders, which is absolutely correct if one takes into consideration that performing the activities of substantial public interest is not equivalent to performing public governance activities. In the domestic literature, it has not been acknowledged that public media services have the status of public authority holders, which is the result of a rather confusing standpoint on the difference between the state and non-state administration. Therefore, in area of public information, the status of public authority holders is granted to the Regulatory Authority for Electronic Media and public media services; other electronic media and printed media are not public authority holders. Moreover, the organizational structure of public media services is quite different from other electronic media, primarily due to the fact that public media services have internal bodies that other electronic media do not have. Above all, public media services differ from other electronic media in terms of the degree of public participation in constituting their organizational structure and implementation

of public media service activities. In this context, the Public Media Services Act envisages the accountability of the public media service broadcasters to the general public for the activities they perform. (Prica, 2021a: 388-408).

The primary activity of public media services aims to accomplish specific interests in the field of public information through the producing, purchasing, processing and broadcasting radio, television and multimedia content, including informative, scientific-educational, cultural-artistic, children, entertainment, sports, religious and other programs which are of public interest for the citizens and territorial community subjects. The objectives of the public media service activities go way beyond the scope of activities of other electronic media.⁷ Thus, it may be said that that public media services are a comprehensive embodiment of the public interest in the area of public information. Televisions with national coverage and public media services perform commercial activities as well, but such activities should be a subsidiary element of the content of the public interest within the public information activity performed by these media.

Speaking of televisions with national coverage, the current situation in the Republic of Serbia is rather unfortunate, having in mind that none of the four commercial televisions with state-wide (national) coverage (Pink, O2, Happy, and Prva) broadcasts all five mandatory television genres (informative, scientific-educational, documentary, cultural-artistic and children's programs), which are stipulated in the Rulebook. Information on the increase of reality programs in the structure of media content of the televisions with national coverage can be the best indicator of unfortunate media circumstances in Serbia. For instance, during 2018 and 2019, the share of informative and reality programs broadcasted on Pink and Happy was 65.97% and 74.86% respectively. The increase of informative and reality programs has caused irreparable damage to culture and art. Moreover, in the period from 2012 to 2020, the presence of documentary, scientific-educational and children programs on televisions with national coverage was at the level of a statistical error (from 0,03 to 0,54%),

7 Some of the objectives envisaged in the Public Media Services Act are as follows: 1) developing media literacy of the population; 2) production of domestic documentary program and TV series; 3) providing timely information to the public about current worldwide events, as well as about scientific, cultural and other civilization achievements; 4) promoting general education, health education and environmental education; 5) developing culture and artistic creation; 6) nurturing humane, ethical, artistic and creative values; 7) satisfying citizens' entertainment, recreational, sports and other needs; 8) informing the citizens abroad and members of the Serbian diaspora living outside the territory of the Republic of Serbia; 9) presenting cultural heritage and artistic creation both at home and abroad, and 10) informing the foreign public about the events and circumstances in the Republic of Serbia (Article 7 of the Public Media services Act).

while cultural-artistic program on Pink TV has been covered by zero minutes since 2013 (Prica, 2021a : 381-384).

3. Institutional Imbalance between Electronic Media and Other Public Information Subjects

The Public Information and Media Act (PIM Act) does not regulate the relationship between the provisions of the PIM Act and the provisions of other media laws, which is a major drawback in terms of the media legislation system. As the basic legislative acts, the PIM Act should contain the legal grounds for adopting special media laws, but its provisions should also clearly define the limits and range of legal regimes which would be established by a special law.⁸ Furthermore, in the part regulating the general media regime and legal institutes envisaged in this Act, the PIM Act should regulate the possibility of divergence from its own provisions (i.e. explicit referral to provisions of other media laws). The essence of the systemic law is to shape the possibility of developing the legal regimes within the legal order, not only to use it as a general legislative act which is applied to issues that have not been regulated in the special law.

The Electronic Media Act does not appropriately regulate the relation between its own provisions and the provisions of the basic media law (PIM Act),⁹ nor does it regulate the relations between its own provisions and the provisions of the Public Media Services Act. In turn, the Public Media Services Act refers to the concurrent application of the PIM Act and the Electronic Media Act (!) when it comes to matters which have not been regulated this Act, but it provides no further clarification or explanation.¹⁰ The concurrent application of the two media laws is neither correct nor possible. In terms of public media services, it

8 The only provision of the PIM Act that refers to relations with other laws is Article 67 of the PIM Act, which envisages the application of the Criminal Procedure Code, regarding the ban on distribution of media content.

9 Article 3 of the Electronic Media Act: "Provisions of this Act shall be interpreted in terms of promoting the values of a democratic society, in accordance with the principles of the Constitution of the Republic of Serbia, laws regulating the field of public information and applicable international standards in the field of human and minority rights, as well as practices of international institutions which supervise their implementation." Instead of this formulation, it would be appropriate to envisage the primacy and direct application of the Public Information and Media Act for all issues that have not been regulated by the Electronic Media Act, especially having in mind that the Electronic Media Act explicitly refers to some other laws (Article 2 of the Broadcasting Act, Article 41 of the General Administrative Procedure Act, and Article 42 of the Administrative Disputes Act).

10 Article 52 of the Public Media Services Act states: "The provisions of this Act that regulates the field of public information and electronic media shall apply to all issues pertaining to public media services which have not been regulated by the Public Media Services Act."

would be legally appropriate to envisage the subsidiary application of the basic media law (PIM Act) and the analogous application of the Electronic Media Act. In view of the aforesaid and considering that the PIM Act does not regulate the relations between its own provisions and provisions of other media laws, it cannot be said that the legal order of the Republic of Serbia has a comprehensive media legislation system. This conclusion may be supported by the fact that media laws do not clearly define the relations between various subjects in the area of public information, which particularly refers to the relations between the National Assembly, the Ministry in charge of public information, the Regulatory Authority for Electronic Media, and public media services.¹¹

First of all, electronic media activities cannot be the subject matter of control of the competent Ministry and the Government, as they do not have jurisdiction in this area. However, electronic media are subject to substantial supervision and control by the Regulatory Authority for Electronic Media (hereinafter: the RAEM). Bearing in mind that the RAEM has the status of an independent subject (entity), the institutions that can supervise its work are the National Assembly and competent courts (in terms of legal acts and actions). Moreover, unlike other electronic media, public media services are not subject to extensive RAEM control.¹² The Regulatory Authority (RAEM) does not have the authority to participate in the decision-making process for obtaining the status of a public

11 The relationship between a general (basic) law and a subject-specific law may be regulated through the regime of legal subordination and the regime of legal referral, which is the cornerstone for the differentiation between the subsidiary and the analogous application of the general law. Considering that this issue has not been previously elaborated in great detail in legal literature, there is no common perception in Serbian legislation and among practitioners concerning the distinction between the subsidiary and the analogous application of the general law.

From the author's standpoint, the analogous application is not the same as the subsidiary application of the general law. The subsidiary application implies the application of the general law as a whole for all issues which have not been regulated by a subject-specific law. Analogous application implies the application of the general law in concordance with the nature of the relations between the legal regime and the subject matter (substance) of legal regulation (Prica, 2021b: 97-116). Having this in mind, the basic media law should epitomize the difference between the subsidiary and the analogous application of its provisions in relation to subject-specific media laws.

12 Regardless of the fact that it is quite natural that public media services are not controlled by the Regulatory Authority for Electronic Media (REAM), the REAM authorities over public media services are exercised in the area of constituting the managing boards of public media services, which results in instituting an inseparable link between public media services and the REAM. Accordingly, Article 28 of the Electronic Media Act envisages restricted control authorities of the REAM in terms of public media services. These authorities are considered to be unreasonable and inapplicable, considering the fact it is a relationship between two independent subjects.

media service . It is due to the fact that public media services are independent subjects (legal entities) which are subject to control of the National Assembly, just like the Regulatory Authority for Electronic Media. This means that both public media services and the REAM have the status of independent public authority holders. Ultimately, it means that independent entities are not controlled by other public governance bodies but are subject to control by the National Assembly and competent courts.¹³ However, the control (supervision) authorities of the National Assembly have not been explicitly stipulated, which makes this form of control practically nonexistent, just like a footprint in the sand which may be washed away by a random wave, whereby the arbitrary actions of the Regulatory Authority do not make allowances for laying down the foundations of building the edifice of enlightened public information in the Republic of Serbia. Furthermore, it should be emphasized that the relations between the Ministry in charge of public information affairs, the Regulatory Authority (REAM) and public media service broadcasters have not been comprehensively regulated either, which may be observed in the supervision of the implementation of media laws. Namely, the Ministry in charge of public information affairs supervises the implementation of the provisions of the Public Information and Media Act and the Public Media Services Act, but it does not supervise the implementation of the Electronic Media Act.

The only appropriate solution would be to regulate the control authorities and mutual relations between the National Assembly, the Regulatory Authority (REAM), public media service broadcasters, and the competent Ministry by amending the provisions of the Public Information and Media Act, and to envisage that the (generic) provisions of the basic PIM Act shall be further specified in the special media laws. Additionally, the author considers that there is an institutional imbalance between independent public information subjects in the field of public information. Bearing in mind that the National Assembly's control over the actions of independent bodies has not obtained its clear legal form, appointing a commissioner for public information would be an adequate step towards establishing institutional balance in the field of public information. The National Assembly would elect the commissioner from the rank of reputable media professionals. The commissioner would be tasked to monitor the operations of all media and other public information subjects. The commissioner would not have the authority to directly interfere with media work but his/her monitoring activities of the media, the REAM and other public information

13 Article 6 of the Public Media Services Act envisages that RTV Serbia and RTV Vojvodina shall submit an annual Report on Activities and Business Operations for the previous year, and the report of an independent authorized auditor, to the National Assembly for consideration and decision-making, as well as to the Regulatory Authority (RAEM) for informative purposes.

subjects would enable the commissioner to inform the territorial community subjects about her/his observations, and to send proposals to the National Assembly for improving the work of public information subjects. The activities of the commissioner for public information would eliminate the arbitrariness of the Regulatory Authority for Electronic Media, establish institutional balance and significantly contribute to the development of the control function of the National Assembly, all of which are the necessary preconditions for establishing media law as a system of teleological, systemic and regulatory legal positions which are based on mutual compliance and consistency of media laws.

4. Conclusion

The presence of various legal regimes governing specific media stems from the different goals which are to be accomplished within the public information system as an area of the legal order. Consequently, legal regimes defined by special media laws reflect the specific content of public interest pertaining to specific types of media. The basic content of public interest within the framework of public information has been regulated by the Public Information and Media Act, as the basic media law in this area. Based on the essential content of the public interest envisaged in this Act, the legislator may enact subject-specific legal regimes of public information pertaining to the activities of specific types of media.

The media are territorial community subjects (legal entities) which are obliged to inform the public and communicate their program contents in an objective, impartial and truthful manner. Considering that public information is regarded as a common good, all media (including the commercial ones) are primarily aimed at accomplishing the common and public interests; the only difference may be the content of public interest differs in some media. In the legal order of a state of law (*Rechtsstaat*), the greatest impact is attributed to electronic media, especially televisions with state-wide (national) coverage and the so-called public media services as media which have to accomplish special goals in the field of public information. Televisions with national coverage and public media services which are primarily aimed at accomplishing general interests are bounded by the special content of the public interest and, thus, have more substantial duties than other televisions. Unfortunately, the current circumstances in the field of public information in the Republic of Serbia provide quite a different picture.

The Electronic Media Act does not appropriately regulate the relations between its own provisions and provisions of the Public Information and Media Act as the basis legislative act in this area. Moreover, it does not regulate the relations between its own provisions and provisions of the Public Media Services Act. In

turn, the Public Media Services Act refers to concurrent application of the fundamental media law and the Electronic Media Act (!) in cases where the matter have not been regulated in its own provisions. After all, considering the fact that the Public Information and Media Act does not regulate the relations between its own provisions and provisions of other media laws, it may not be concluded that the legal order of the Republic of Serbia has a comprehensive media legislation system. This conclusion may be supported by the fact that media laws do not clearly define the relations between various subjects in the field of public information, particularly the relations between the National Assembly, Ministry in charge of public information, the Regulatory Authority for Electronic Media and public media services.

The only adequate solution would be to regulate the control authorities and mutual relations between the National Assembly, the competent Ministry, the Regulatory Authority for Electronic Media and public media service broadcasters by amending the provisions of the Public Information and Media Act, and to envisage that the (generic) provisions of the basic PIM Act shall be further specified in the special media laws. Additionally, the author of the paper considers that there is an institutional imbalance between independent public information subjects in the field of public information. Bearing in mind that the National Assembly's control over the actions of independent bodies has not obtained its clear legal form, appointing a commissioner for public information would be an adequate step towards establishing institutional balance in the field of public information. The National Assembly would elect the commissioner from the ranks of reputable media professionals. The commissioner would be tasked to monitor the operations of all media and other public information subjects. The commissioner would not have the authority to directly interfere with media work but his/her monitoring activities of the media, Regulatory Authority of Electronic Media and other public information subjects would enable the commissioner to inform the territorial community subjects about her/his observations, and to send proposals to the National Assembly for improving the work of public information subjects. The activities of the commissioner for public information would eliminate the arbitrariness of the Regulatory Authority of Electronic Media, establish institutional balance and significantly contribute to the development of control function of the National Assembly, all of which are the necessary preconditions for establishing media law as a system of teleological, systemic and regulatory legal positions which are based mutual compliance and consistency of media laws.

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ПРАВНИ РЕЖИМ ЕЛЕКТРОНСКИХ МЕДИЈА У ПРАВНОМ ПОРЕТКУ РЕПУБЛИКЕ СРБИЈЕ

Резиме

У литератури нису анализовани различити правни режими јавног информисања у Републици Србији, а нису разматране ни разлике између постојећих медија. Медији се у позитивноправном значењу разликују према правном режиму устројства, делатности и контроле, а разликују се и према основу делатности јавног информисања коју обављају. Медији су субјекти територијалне заједнице са дужношћу објективног, непристрасног и истинитог саопштавања програмских садржаја, следствено чему сви медији, укључујући и комерцијалне, преваходно служе остваривању општих и јавних интереса, само се садржина јавног интереса разликује код појединих медија. Највећи утицај у поретку правне државе имају електронски медији, а међу електронским медијима издвајају се телевизије са целодржавном (националном) покривеношћу, као медији који би требало да остварују посебне циљеве у области јавног информисања. Телевизије са целодржавном покривеношћу преваходно служе остваривању општих интереса, везане су посебном садржином јавног интереса и стога имају знатно веће дужности од других телевизија, што нажалост не одговара постојећим приликама у области јавног информисања у Републици Србији.

Кључне речи: електронски медији, телевизије са целодржавном покривеношћу, медијски сервиси, демократско друштво, унапређивање културе.