



BORDI I ANKESAVE PËR MEDIA
MEDIJSKI ODBOR ZA ŽALBE
MEDIA APPEALS BOARD

The Media Appeals Board

Acting under the authority conferred upon it by Law No. 02/L-15 on the Independent Media Commission (IMC) and Broadcasting on the Licensing and Regulation of the Broadcast Media in Kosovo, Section 24.2 (a), the Media Appeals Board (the "Board") hereby adopts its Rules of Procedure which shall govern its procedure regarding appeals against decisions of the Council of the Independent Media Commission.

These Rules of Procedure have been unanimously adopted by the Media Appeals Board - Wolfgang Benedek (President), Anton Nokaj (Member), and Avdi Dinaj (Member) on 07 May 2007.

Rules of Procedure

Submission of Appeals

1. An appeal and all supporting documentation shall be submitted within thirty (30) days of the issuance of a decision by the Independent Media Commission's Council (the "IMC Council") which is subject to appeal under applicable laws and regulations. An appeal must indicate the decision number and date of the IMC Council decision to which it refers. Appeals to the Board have to be submitted through the office of the IMC.
2. The Appellant should present some facts or legal arguments not previously considered by the IMC Council or allege that the IMC Council committed an error of fact, law or procedure in making the decision of first instance.

An appeal shall specify a challenge to one or more of the following aspects of the decision by the IMC Council:

- a) the findings of fact,
- b) the interpretation of law,
- c) the procedure, and
- d) the sanction or condition imposed.

The Appellant shall also specify what remedy it requests from the Board.

3. The IMC Council shall prepare a response to the appeal, along with any supporting documentation the IMC Council deems necessary. The IMC Council shall provide this response to the Board no later than eight (8) days prior to a hearing, in English and in Albanian translation (as well as Serbian translation, if necessary), which shall be made available to the Appellant no later than eight (8) days prior to the session of the Board in which the Board shall deliberate the appeal. The Appellant has no right to submit any further rebuttal in writing, but may respond in a hearing before the Board.
4. The Office of the Chief Executive of the IMC shall submit to the Board copies of the following set of documents no later than eight (8) days prior to the session of the Board in which the Board shall deliberate the appeal:
 - a) the decision being appealed
 - b) the appeal with supporting documentation
 - c) the response of the IMC Council with supporting documentation

Evidence and Submissions

5. The burden of bringing forward facts upon which a party relies shall lie on that party.
6. The Office of the Chief Executive of the IMC shall provide the Appellant access, upon request, to all documents in the IMC's case file.
7. Appeals shall be submitted and signed by the Appellant in Albanian or

- Serbian. Appeals may be accompanied by supporting documentation.
8. On application being made to it, the Board may admit written submissions by third parties having an interest in the proceedings. In exceptional circumstances, the Board may invite such third party to address the Board.

Delegation of Functions

9. The Board may delegate the review of the criteria related to admissibility of complaints as indicated in paragraphs 1 and 2 and of the proof of evidence as indicated in paragraphs 5-8 to the Office of the Chief Executive to be performed under the supervision of the Board.

Hearings and Languages

10. The Office of the Chief Executive of the IMC shall notify the Appellant, not later than fifteen (15) days prior to the date of a Board session, that the Board shall conduct deliberations with respect to the appeal. This notification shall offer the Appellant the opportunity to make a request, within a deadline of three (3) days, for a hearing before the Board. The purpose of a hearing is to give the Appellant the possibility to explain the appeal according to the criteria in Rule 2 above.
11. If the Appellant does not request a hearing within the deadline, the Board may consider the appeal at the session based on the written submissions.
12. Hearings before the Board shall be held in private. The MAB decides on the admission of observers after consultation with the parties
13. Hearings shall be conducted in English and Albanian and/or Serbian with simultaneous or consecutive translations as necessary.

Parties to the Hearing

14. The Appellant and the IMC Council shall both have the right to be present at the hearing.
15. The Appellant may be represented by a duly-appointed attorney.

16. The IMC Council may be represented by the Chef Executive or a duly appointed legal officer.
17. The parties are entitled to receive at least eight (8) days advance notice in writing of the time, date and place of the hearing.

Organization of the Proceedings

18. The President of the Board shall designate the order of the hearing.
19. Any member of the Board may put questions to or invite comments from the Appellant or the IMC Council on any matter of law or fact relevant to the proceedings.
20. The Board may call for further evidence on any such issue to be submitted by any party to the proceedings.
21. The Board, on its own motion or at the request of either party, may adjourn the hearing for such time as it deems appropriate.
22. The Board may take decisions necessary for the orderly and timely conduct of proceedings before it.

Decisions of the Board

23. Decisions of the Board shall be by a majority of votes.
24. Decisions of the Board shall be in writing and supported by reasons. A member of the Board may attach a separate or dissenting opinion.
25. The decision of the Board will indicate whether it upholds, modifies or rescinds the IMC Council decision. The reasons for a decision shall contain the Board's findings of material fact, its conclusions as to the applicable law, and its ruling on the application of the law to the facts as found, including the exercise of any discretion.
26. A record of the voting shall be signed by all members of the Board, as an internal document of the Board, in which a dissenting member may note a dissenting vote. The decision of the Board, with complete reasoning, shall follow as a separate document, to be signed by the President of the Board.

27. Decisions of the Media Appeals Board shall be final, subject to the procedural review of the Supreme Court of Kosovo in accordance with the applicable law.
28. The decision shall be submitted to the parties in their language and be published in the official languages and in English. All decisions as well as the rules of procedure of the Media Appeals Board will be published on the website of the IMC.