



BORDI I MEDIAVE PËR ANKESA
MEDIJSKI ODBOR ZA ŽALBE
MEDIA APPEALS BOARD

The Media Appeals Board

Acting under the authority conferred upon it by UNMIK Regulation No. 2000/36 of 17 June 2000 on the Licensing and Regulation of the Broadcast Media in Kosovo, section 4.6, the Media Appeals Board (the "Board") hereby issues the following Rules of Procedure which shall govern the conduct of hearings before it.

These Rules of Procedure were adopted by the Media Appeals Board – Guy S. Goodwin-Gill (President), Julie Chadbourne (Member), and Ramadan Vraniqi (Member) – on 31 August 2000.

These Rules of Procedure were amended by the Media Appeals Board – Wolfgang Benedek (President), Agnieszka Klonowiecka-Milart (Member), and Anton Nokaj (Member) – on 05 August 2005.

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 Temporary Media Commissioner (the "TMC") which is subject to appeal under applicable laws and regulations. An appeal must indicate the decision number and date of the TMC decision to which it refers.
2. An appeal shall not be interpreted as a reconsideration request. Therefore, the Appellant must present some fact or legal argument not previously considered by the TMC, or allege that the TMC 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 TMC and set out an alternative pleading:
 - 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 TMC may prepare a response to the appeal, along with any supporting documentation the TMC deems necessary. The TMC shall provide this response to the Board no later than seven days prior to a hearing, in English and in Albanian translation (as well as Serbian translation, if necessary), which shall be available to the Appellant upon request. 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 TMC shall submit to the Board copies of the following set of documents no later than seven (7) days prior to the session of the Board in which the Board shall deliberate an appeal:
 - a) the decision being appealed
 - b) the appeal with supporting documentation
 - c) the response of the TMC (if any) 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 Secretariat of the Board shall provide the Appellant access, upon request, to all documents in the TMC's case file.
7. Appeals shall be submitted and signed by the Appellant in an official language, and may be accompanied by translation. Appeals may be accompanied by supporting documentation which may be in Albanian or Serbian. However, the Appellant must provide with any supporting documentation either an English translation or a sum of 10.00 (ten) Euros per page to cover translation costs.
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 any such third party to address the Board.

Hearings and Languages

9. The Secretariat of the Board shall notify the Appellant, no later than fourteen (14) 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 five (5) days, if the Appellant wishes a hearing before the Board. Appellants shall be entitled to request a hearing before the Board so long as the request for a hearing is filed within the deadline of five (5) days. The purpose of a hearing is to give the Appellant the possibility to explain the appeal according to the criteria in Rule 2 above, but not to submit any new material which was not submitted within the original thirty (30) day deadline in Rule 1 above.
10. If the Appellant does not request a hearing within the deadline, the Board may consider the appeal at the session based on written submissions.
11. Hearings before the Board shall be held in private unless either one or both parties requests that this provision be waived.
12. Hearings shall be conducted in English and Albanian with translation as necessary. Where appropriate, provision will be made for the use of Serbian.

Parties to the Hearing

13. The Appellant may be represented by a duly-appointed attorney.
14. The Temporary Media Commissioner may be represented by a duly appointed legal officer.
15. The Appellant and the TMC shall both have the right to be present at the hearing. 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

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

Decisions of the Board

21. Decisions of the Board shall be by a majority of votes.
22. The decision of the Board shall be in writing and supported by reasons. A member of the Board may attach a separate or dissenting opinion.
23. The decision of the Board will indicate whether it upholds, modifies or rescinds the condition or sanction imposed by the Temporary Media Commissioner or any refusal by the Temporary Media Commissioner to issue a license. 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.
24. 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. A decision of the Board, with complete reasoning, shall follow as a separate document, to be signed and issued by the President of the Board.
25. The decision of the Board shall be made public and shall be published in the language of the Appellant and in English, and in such media as the Board shall determine.

Reconsideration and Finality of Decisions

26. In exceptional cases and within three months of the decision of the Board to uphold, modify or rescind any decision of the TMC, either party may request reconsideration of that decision on the basis of new evidence which could not reasonably have been made available to the Board at its original hearing.
27. The Board shall decide on any such application for reconsideration without a hearing and on the basis of written submissions from the Parties.
28. Subject to Rules 26 and 27 above, decisions of the Board are final. Notwithstanding these provisions, decisions of the TMC as upheld or modified by the Board are enforceable from the date the Board issues its decision on the Appeal, unless the Board decides otherwise.