

THE FUTURE OF PUBLIC SERVICE BROADCASTING IN KOSOVO: WILL A HYBRID MODEL OF FUNDING CHANGE RTK'S STATUS QUO?

Author: Naser Miftari

Radio Television of Kosovo was established in 1999 through a comprehensive international assistance program. In the years following the handover from international management to local ownership its financial situation became increasingly vulnerable. In 2009, ten years after it went on air, the license fee, which was paid by all households in Kosovo and was the main source of funding for RTK, was suspended, and RTK turned to being fully dependent on state funding in subsequent years. The growing dependence on the state budget has also eroded its editorial independence and credibility. This policy brief analyses the proposed amendments to the existing RTK Law (2012) regarding the re-introduction of the license fee, the selection and term limits of the RTK Board and management appointments, as well as proposed methods to ensure that RTK has greater accountability. It explores the suitability of these proposals and their implications in regard to the prospects and future functioning of Kosovo's public broadcaster.

SUMMARY

1. INTRODUCTION

Radio Television of Kosovo (RTK) is Kosovo's public broadcaster, established in 1999 by European Broadcasting Union (EBU) experts under the United Nations Mission in Kosovo (UNMIK) guidelines. Operating with an annual budget of € 10-12 million¹ and a staff of close to 900,² RTK has under its umbrella 4 TV channels, of which RTK 1, RTK 3 and RTK 4 are terrestrial channels and RTK 2, in the Serbian language, is broadcasted via cable. The broadcaster also operates two radio stations, Radio Kosovo 1 and 2 and the RTK web portal (rtklive.com). In 2009, ten years after it went on air, the license fee, which was paid by all households in Kosovo and was the main source of

funding for RTK, was suspended and RTK turned to being fully dependent on state funding in subsequent years.

Some of the main challenges for the broadcaster over the past 8 years, ever since its license fee was suspended, have been to ensure long-term sustainable financing and preserve its editorial independence from political interference. Both challenges are inter-dependent on one another. Addressing them meaningfully would mean that, apart from the re-introduction of the license fee, an accountable management be put in place. This in turn would mean more transparent and more thorough selection procedures for board members, and consequently management, in order to turn RTK into a

credible public broadcasting service, less vulnerable to political influence, and first and foremost accountable to the public.

After years of debate during which the RTK Board, Kosovo MPs and experts have explored options for the sustainable and long-term financing of RTK and a more efficient public service broadcaster, a number of amendments have recently been put forward by Kosovo's Assembly Committee on Media. These seek to introduce a functional mechanism to replace the state budget funding and also to increase the prospects for the editorial independence and public accountability of RTK.

The re-introduction of the license fee model is one of the major amendments being proposed. If it gets approved it would kick-in in 2018. Other amendments relate to aspects of RTK governance, board and management selection and term lengths, as well as aspects of RTK's responsibility and accountability to the public.³

The focus of this policy brief is on the issue of funding, the selection and terms of the board and management, and proposed methods to increase RTK's accountability. At this point the proposed amendments need government approval, and they can then be voted on in the Kosovo Assembly. If approved they will turn RTK into a hybrid model broadcaster for the foreseeable future.

2. FUNDING

Since 2010 RTK has seen a shift from being fully funded from the license fee (85 percent) and advertising revenues (15 percent) to becoming almost fully dependent (85 percent) on the state budget.⁴ Prior to falling under Assembly control, RTK strived to achieve financial independence from the Kosovo budget,

considering dependence on the license fee as the most acceptable approach. The license fee, collected via the Kosovo Electric Corporation (KEK), ensured RTK's sustainability from 2005 to 2009. However, the arrangement with KEK did not leave much space for political interference in RTK. Therefore, a year before its expiry, KEK decided to unilaterally terminate its contract with RTK, claiming that it was suffering losses.⁵ Next, the Constitutional Court of Kosovo suspended the RTK license fee, considering its collection unconstitutional.⁶ The then RTK management saw this development as a political effort to interfere with RTK ahead of the elections scheduled for 2007.⁷ RTK also cited UNMIK's lack of support for the collection of the license fee, despite the recommendations of the EBU that UNMIK prevent this from happening.⁸ After KEK terminated the contract, giving RTK six months to find an alternative solution, the Kosovo Assembly failed to adopt a new Law on RTK within that timeframe, and the suspension of the license fee remained in effect.⁹ Without a solution, in 2010 RTK moved from a situation in which it was securing 85% of its income from the license fee and the rest from the advertising, to become fully dependent on the Kosovo state budget. In subsequent years this has made RTK increasingly vulnerable to political influence.

When the RTK law was approved in 2012¹⁰ the Kosovo Assembly was mandated to finance the broadcaster conditionally for three years via the Kosovo budget until an alternative funding mechanism was introduced. In recent years, the RTK Board and Kosovo MPs have debated various options for a model of sustainable and long-term financing including the reintroduction of the license fee. The decision on the future model of funding was dragged on for long time and an alternative to replace the budget funding was never introduced. As a result, the

funding for RTK continued to be provided on a quarterly basis, each time with the understanding that the collection of the license fee would be re-introduced at some point. The method of funding that the Kosovo Assembly has pursued since 2010 in financing RTK – namely providing funds for its essential operations on a quarterly basis instead of through a longer-term commitment – has made RTK feel financially unstable and insecure, prevented the needed systematic restructuring of the service, delayed needed investments in technological upgrades and kept the service in a state of perpetual crisis, which has been detrimental to efficient business management, morale, productivity and creativity within RTK. Under such conditions RTK has ended up in a position of accumulating losses over the years and now has a negative balance of close to €4 million. Despite putting forward numerous proposals, the broadcaster has been unable to invest in its own development and digitalization. Fortunately, in 2015 RTK received assistance in the amount of €1.2 million from Japan's International Development Agency (JICA) for a project that would see the internal digitalization of RTK's newsroom into an Integrated Media Service. However, in order to maintain a quality service, and be on a par with other public broadcasters in the region, RTK needs continuous financial support to ensure it meets the requirements for the digital switchover process and to ensure it remains competitive in the Kosovo media market.

At the same time, the RTK should work harder to expand its plans, with affordable subscription rates from cable subscription, since it broadcasts via satellite platforms to Western Europe and North America. So far it has under-utilized such potential, although the advantages could be great given the large Albanian communities in the US and across Europe (in particular Switzerland, Germany and Austria),

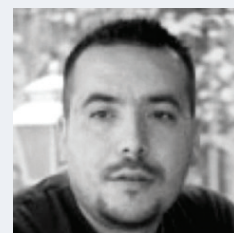
as a means to generate income from revenues and towards becoming financially self-sustainable in the future.

With regard to generating advertising revenues, RTK should also be allowed to have continued access to advertising in up to 10 percent of its programming, as stipulated in the law, so long as it adheres to the guidelines set forth by the Independent Media Commission (IMC). It might, however, become more challenging for the IMC to keep track of such limits as RTK's technological capacities grow to expand on multiple platforms, and measures will need to be put in place to ensure RTK remains within its advertising quota.

3. BOARD AND MANAGEMENT SELECTION AND TERMS

The importance of the RTK Board, its selection process and mandates rest on the fact that on a formal level, the board is the main decision-making authority of RTK. The management of RTK, including the director general, in accordance with the 2012 RTK Law, is formally accountable to the board, issuing reports to the board once a month. The board has the competencies to appoint and/or dismiss the director general of RTK based on Article 29, paragraph 2.6 and Article 33 of the Law on RTK. In practice, the board remains somewhat sub-ordinate to the RTK management.

Based on Article 26 of the RTK Law of 2012 the board members are appointed by the Kosovo Assembly for terms lasting between 2 and 4 years. Procedurally, RTK announces the bid for new board members 90 days prior to the expiry of the mandate of old board members. Within 30 days, upon the review of all candidatures, the Ad Hoc Committee of the Assembly recommends to the Kosovo Assembly two candidates for each board position. The



Dr. Naser Miftari holds a PhD in Political Science from the University of Nebraska-Lincoln and a Master's in Journalism from Temple University-Philadelphia. His main areas of interest are political communication and comparative media development and democratization.

two candidates are then voted on in a future session of the Assembly on the first past the post principle.

The process itself of the nomination of RTK Board members as stipulated in the Law on RTK (2012) is performed within the Assembly, and political affiliation and loyalty to political parties are often taken more into account than professionalism for the selection of board members, and consequently of RTK management. This has resulted in inefficient board members, the dismissal of more qualified candidates and the selection of those that are more vulnerable to political influence. Attention has been drawn to the issue of politically influenced board appointments in the European Commission's annual progress reports on Kosovo for the past three years (2013, 2014 and 2015).

As amendments for the selection of board members and of management are pushed forward, at this point it remains unclear whether the proposal to extend the mandates of board members and of director general to 5 years will affect, or could apply to, the existing board and management. The proposal seems vague in this regard. Initially it was proposed that the mandate of the board members be 5 years without the possibility of extension. A reformulation was then sought to stipulate that the mandate for all board members who are selected based on the existing law, once the board is complete, be 5 years. In principle, long-term mandates for board members are better when it comes to pursuing the long-term development policies of the public broadcaster; however, if we take into account that political influence will continue to be exercised through board members that owe their position in the board to political affinities with political parties, it would make more sense to introduce such mandates for the incoming board and not reward the outgoing board with bonus years.

As per the proposed amendments to the RTK law an external professional agency will be hired to screen the candidates to determine their suitability. In this case, care should also be taken in determining the criteria upon which such an agency might be hired, under what terms such an agency can perform the selection process, the criteria it needs to meet to be able to enter into such a process and what merit it should have in order to be trusted with the selection and screening of candidates – in order to prevent the board selection process from turning into another façade, and, instead of closing the loop-holes in the interpretation of the existing law, opening new ones.

The importance of selecting highly qualified board members becomes greater considering that the format of the board as per the proposed amendment will be lowered to 9 members, instead of the 11 it had previously. A smaller board should also mean that a more qualified body of members should represent RTK.

4. RTK'S ACCOUNTABILITY AND RESPONSIBILITY

When it comes to the issues of accountability and responsibility there are a number of challenges that remain on the surface. The existing RTK law, as well the proposed amendments, are vague regarding the accountability of RTK; RTK's level of financial transparency has traditionally been low and there is no effective mechanism to make it accountable for its programming.

Over the years, stipulations about the ways RTK should reflect its accountability have been selectively appropriated, and have not been followed through with due diligence. RTK, like other independent institutions set up in post-conflict Kosovo, has not been held to account as

it should have been when it comes to providing accountability before the Kosovo Assembly.¹¹ This is due to the absence of a clearly stipulated legal obligation for public institutions regarding their re-submission of annual reports, and lack of sanctions in cases of failure to comply. Like other publicly funded institutions, RTK has been left off the hook in cases of non-compliance. More precisely, the suggestions offered by the EU, as the Law on RTK was drafted in 2012, that a court of auditors should perform the audit on RTK on a periodical basis, was interpreted by RTK as a right to hire private auditing companies on its own terms, rather than agree to be audited by the Office of Auditor General (OAG). Despite being pressured by different parliamentary groups within the Kosovo Assembly to undergo auditing by the OAG, to date the RTK has only agreed to a non-statutory audit, whose recommendations it is not obliged to implement.¹²

In terms of accountability, another challenge remains in how the Law is interpreted. According to Article 38 of the existing law, the annual report of RTK should provide details not only about its expenses and services but also about its program and content, and should also be accompanied by a report from the board. What this means is that MPs are given a lot of leeway to scrutinize RTK regarding its content and programming instead of being able to focus solely on the financial and operational aspects of the broadcaster. However, however the past RTK has resisted such efforts on the Assembly floor to being scrutinized with regard to its content and programming. It is important that RTK resists such scrutiny from politicians. At the same time, however, it should introduce ways to provide such programming accountability to the public. In principle RTK should be held accountable for both its programming and financial aspects. Given the nature of

its projected funding in the future – both from the license fee and from the Kosovo budget – RTK will be bound to remain accountable to both the Kosovo Assembly and the public in regard to its funding and responsible to the public in regard to its programming by setting up the long announced Public Advisory Group – an independent body within RTK that will address comments and suggestions from the public and will advise the board on issues of programming.

A newly proposed amendment in the existing RTK law suggests that in a case where the annual and financial reports are not approved by the Kosovo Assembly, the board should dismiss the RTK management and introduce a caretaker management until the selection of a new management. This recommendation is welcome; however, before such steps be taken it would be wise to introduce a different mechanism and bodies to which RTK will report, and annual and financial reports should not be reviewed together or by the same authority.

5. CONCLUSIONS

The future of RTK is closely linked to the improvement of the political climate in Kosovo and growing acceptance of institutional checks and balances. As Kosovo is still in the process of inner consolidation, and facing challenges to accommodate its ethnic Serb minority within its institutional umbrella, the role of RTK remains important in ensuring cohesion in a fragile and divided society. The country needs the public broadcasting service as a firm assurance that diverse segments of Kosovo's multicultural society will feel represented.

On a national scale Kosovo needs RTK as a universally accessible public forum where ideas, opinions and political views

can be presented and debated. Furthermore, upholding the independence and long-term sustainability of RTK are commitments undertaken by the Kosovo government in the context of the European integrations process.¹³

It is therefore important that the future path of the development and operation of RTK gain an as broad as possible political consensus behind it to confirm that an independent public broadcaster is indeed necessary for Kosovo and is in everyone's interest. Such a consensus should also be comprehensive enough to deal with RTK's financial problems and the long-term sustainability of the service as well as ensuring that it remains accountable and responsible. The nature and practicalities of such a consensus would also determine the future modernization of RTK.

6. RECOMMENDATIONS

A number of recommendations can be directed at the Kosovo Assembly and the RTK Board and management in order to ensure greater independence, financial sustainability and the accountability of RTK:

Recommendations to the Kosovo Assembly

The idea of re-introducing RTK's license fee in 2018 in the amount of € 2.5 per household seems promising. If the proposal for partial budget funding is approved, a clear timeline for such funding should be provided. In addition, in the absence of a clear specification as to the designation of continued funding from the Kosovo Assembly, such funding might be left to be determined arbitrarily. The optimal solution could be to designate the state budget funding as funding for specific capital investments. Furthermore, RTK needs continuous financial support to

ensure it meets the requirements for the digital switchover process and the Assembly needs to make sure RTK receives the resources necessary to meet the demands of such a process.

At the same time, RTK should be encouraged to work harder to expand its plans with affordable subscription rates from cable subscription since it broadcasts via satellite platforms to Western Europe and North America. So far it has under-utilized such potential. The Assembly needs to have a report on where RTK stands in this regard and how it can best utilize its capacities in the future. The advantages could be great - given the large Albanian communities in the US and across Europe (in particular Switzerland, Germany and Austria) - as a means of generating income from revenues and towards becoming financially self-sustainable in the future.

In regard to generating advertising revenues, RTK should also be allowed to have continued access to advertising in up to 10 percent of its programming, as stipulated in the law, so long as it adheres to the guidelines set forth by the Independent Media Commission. It might however become more challenging for the IMC to keep track of such limits as RTK's technological capacities grow to expand on multiple platforms, and measures will need to be in place to ensure RTK remains within its advertising quotas.

The current management and the board should be clearly defined as an acting/caretaker board, and the management and their roles should be oriented towards assisting RTK's transition to a new stage until a new board and a new management are put into place with solid mandates that will allow them to engage meaningfully in pushing forward the agenda of RTK as an independent broadcasting service.

As the selection of the board members will be made through a designated (professional) agency that will undertake the screening of applicants, care should also be taken in determining the criteria upon which such an agency might be engaged, under what terms such an agency can perform the selection process, the criteria it needs to meet to be able to enter into such a process and what merit it should have in order to be trusted with the selection and screening of candidates - so as not to turn the board selection process into another façade, and therefore, instead of closing the loop-holes in the interpretation of the existing law, open new ones.

The Assembly needs to introduce accountability procedures and to have them in place as well as to start acting on them in cases of non-compliance. RTK needs to be audited fully by the Office of Auditor General (OAG) as per the proposed amendments, and not only by a non-statutory audit whose recommendations RTK is not obliged to implement. In line with the proposed amendments RTK should be available at any point in time to the Office of Auditor General for an audit of its financial reports. The findings of the audit reports should then be reviewed and approved in the Kosovo Assembly.

Recommendations to the RTK Board and Management

While both funding models that RTK has used previously – the license fee and budget funding - have their shortcomings as well as advantages, the suggested model, through which partial funding is provided by the Kosovo Assembly and the rest from the license fee and advertising revenues, is perhaps an intermediate step, and a way to lessen the political control to a certain extent. It is not a guarantee that RTK will become more assertive in its pursuit of editorial independence nor more responsive and/or accountable to

the public. Obviously, for this to happen a broader consensus and understanding that a depoliticized public service broadcaster is in everyone's interest first needs to emerge within the political elite. Such a consensus could also make it easier for the board and management to pursue a more independent line in RTK's editorial policy. However, in a polarized political atmosphere such that of Kosovo, such a consensus is difficult to reach or sustain.

Before the re-introduction of the license fee, RTK needs to embark on a process of providing assurances to the public that it does indeed represent a public asset and that it should be nurtured as such. It can do so by initiating a set of roundtables with the public and initiating a comprehensive review of its mandate via public input through open discussions about the public's expectations of the RTK.

Furthermore, RTK needs to take immediate steps to prevent the degradation of its editorial independence. To avoid this degradation, RTK will have to undergo a process of transition – that is, mark a clearer departure from what has been its standard operating procedure – to ensure that it can reach the point where it is regarded unequivocally as truly independent, and recognized genuinely and collectively as a public good. In terms of editorial independence, Article 18, paragraph 3 states that “RTK shall lead, develop and cultivate editorial policy with a sound, positive, impartial, creative perspective, and civilizing, professional and humane content.” In 2015 RTK re-introduced its in-house code of professional standards and ethical principles to guide the work of RTK journalists and editors. To ensure that its reporters and editors pursue their work in line with the editorial independence prescribed in the law, RTK management and the board need to encourage a broad internal debate with their staff to ensure that such provisions are adhered to in practice and

that RTK's reporting can reach the point where it is considered unbiased with regard to different political options.

In order to remain accountable to the public and in line with the wording of the law as regards its content and program performance, RTK should also introduce a Public Advisory Group, as stipulated in Article 36 of the law, which should be set up by the RTK Board, and address comments and suggestions from the public, as well as advise the board on issues of programming, so that it could step in and

conduct a performance review of RTK programming overall if given a clear mandate and the resources to perform such a task.

The new board and management should also be more assertive in garnering its journalists more closely around the greater common interest – that is enforcing the Standards and Principles of Professional Reporting – and should ensure greater cohesion within the service while striving to sanction bias in its reporting, in order to ensure that RTK remains independent in its reporting.

1 RTK Annual and Audit Reports 2010-2015 available online at: <http://www.rtklive.com/sq/page.php?ID=16> (Accessed on August 20, 2016).

2 Committee for Public Services, Local Administration and Media, Procesverbal nga Komisioni për Administratë Publike, Qeverisje Lokale dhe Media, Mbledhja No. 6 [Transcript from the 6th Meeting of the Committee for Public Administration, Local Government and Media 06] (Prishtinë: Committee for Public Services, Local Administration and Media, February 18, 2015). http://www.kuvendikosoves.org/common/docs/proc/proc_2015_02_18_12_5777_al.pdf (Accessed on May 17, 2016).

3 Some of the proposed amendments include the re-introduction of the License Fee as of Jan. 1, 2018. (2.5 euro per household); continuation of the state budget financing for RTK in the amount of 0.4% of the state budget, instead of 0.7% which has been the case so far. Other important amendments relate to the process of selection, terms and limits of board members and the director general. The board member mandates would be 5 years, instead of 2, 3 and 4 years as has been the case so far. According to the current law, the Director General was appointed for a 3 year mandate and can re-apply for the position once. Such a limit

would no longer apply. Moreover, the Director General is appointed with 2/3 of the votes of the board and can be dismissed with the same process, and it is now proposed that the director be appointed with a simple majority and be dismissed with 2/3 of the Board. Additional proposed amendments include provisions for the hiring of a professional agency by the Assembly to interview the Board candidates before giving them approval for the board, and the need for RTK to undergo statutory annual financial reviews by the Office of the Auditor General in efforts to increase the accountability of RTK.

4 RTK Annual and Audit Reports 2010-2015.

5 Radio Television of Kosovo, Raport Vjetor për vitin 2007 [RTK Annual Report 2007] (Prishtina: Radio Television of Kosovo, 2008).

6 Decision of the Constitutional Court on the temporary measure Case KI 11/09, Tomë Krasniqi vs. RTK et al. available online at: <http://www.gjk-ks.org/?cid=2,57> (Accessed on April 23, 2017).

7 RTK Annual Report 2007: The RTK annual report cited a Government spokesperson's remarks that "the re-introduction of the contract with RTK can be done if RTK changed its editorial policy towards the Government".

8 Ibid.

9 Decision of the Constitutional Court on the temporary measure Case KI 11/09, Tomë Krasniqi vs. RTK et al.

10 “Law No. 04/L-046 on Radio Television of Kosovo”, *Official Gazette of the Republic of Kosovo* 7/12, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2812> (Accessed on April 23, 2017).

11 Kosovo Democratic Institute, *Agjencitë e (Pa) Varura dhe Ndërmarrjet “Publike” në Kosovë* [In (dependent) Agencies and ‘Public Enterprises’ in Kosovo] (Pristina: Kosovo Democratic Institute, September, 2014). <https://www.kdi-kosova.org/publikime/8-APNPKshq.pdf> (Accessed on August 20, 2016).

12 Office of the Auditor General, Dizajni dhe

Funksioni i Sistemit të Menaxhimit të Radio Televizionit të Kosovës [Audit Report, Document No. 21; 23.1.9-2012/2014-08 Design and Functioning of the System of Management within RTK] (Pristine/Pristina: Office of the Auditor General, Maj/May 2015) http://www.zka-rks.org/repository/docs/SistemiMenaxhimitRTK_2014_Shqip_191527.pdf (Accessed on December 10, 2015).

13 Government of Kosovo, Action Plan on the Negotiations for the Stabilization and Association Agreement (SAA) (Pristina: Government of Kosovo, December 2012) <http://www.mei-ks.net/repository/docs/Anglisht.pdf> (Accessed on November 15, 2015).



SWISS NATIONAL SCIENCE FOUNDATION



UNIVERSITÉ DE FRIBOURG
UNIVERSITÄT FREIBURG

This publication is produced within the project “The Prospect and Development of Public Service Media: Comparative Study of PSB Development in Western Balkans in Light of EU Integration”, performed together with the University of Fribourg’s Department of Communication and Media Research DCM and funded by the Swiss National Science Foundation through the SCOPES (Scientific Cooperation between Eastern Europe and Switzerland) programme.

The views expressed in this publication are those of the author and do not necessarily represent opinions of the Swiss National Science Foundation, University of Fribourg and Center for Social Research Analitika.

For more information, contact:

Analitika – Center for Social Research
www.analitika.ba
info@analitika.ba

2017 © Analitika
– Center for Social Research, All Rights Reserved