



Advokatska kancelarija Ristić

ANALYSIS OF THE PROCEDURE OF RTS IN RELATION TO THE 2023 PUBLIC COMPETITION

The factual situation:

In 2023, the public media institution Radio Television of Serbia announced a public competition for the selection of program content of European independent productions, which will be broadcast on the programs and internet platforms of Radio Television of Serbia.

On May 30, 2023, Association Za Drinking Fountains submitted a proper application for the public competition, with the documentary TV series "Look Around You", which was created as part of the implementation of the project „Environmental Response to Mining Expansion in Timočka Krajina“, which was co-financed by the EU Delegation in the Republic of Serbia.

During November and December 2023, on several occasions, Association Za Drinking Fountains submitted a request for information about the status of the public competition and their application to RTS. Still, only on 05.01.2024, RTS delivered an answer in the form of an e-mail message to Association Za Drinking Fountains. RTS informed Association Za Drinking Fountains that the application was received and that the project was rejected, with the explanation that the editorial staff of the environmental program within the Radio-television of Serbia, analyzed the synopsis of the program content "Look Around You", attached to the application, and found that the Radio-television of Serbia already deals with the relevant topics within the series in its own production „Eco perspectives" and "Edu global" and other shows. Considering the current program needs, the application for content was not selected in the before-mentioned public competition.

On the same day, on January 5th, 2024, the General Director of the RTS made Decision No. 105 on the selected program contents of European independent productions, which will broadcast on programs and Internet platforms of RTS, among which Association Za Drinking Fountains application was not found.

Based on the reply of RTS given by email on January 5th, 2024, Association Za Drinking Fountains checked the accuracy of the statement in the reply- that the subject matter described in the synopsis of the program content Association Za Drinking Fountains, "Look Around You", is dealt with by RTS within the series in its production, and the analysis of 60 shows of RTS "Eko Perspektive" and "Edu global" determined that none of the topics listed in the synopsis of the TV series "Look Around You", with which Association Za Drinking Fountains competed, were covered in these shows. We are talking about topics that follow the impact and consequences of mining on the territory of Eastern Serbia, where the expansion of mining has been taking place for two years on a scale that has not been recorded on the European continent. The public interest also justified the realization of the proposed TV series, which is reflected

Advokatska kancelarija Ristić
Desanke Maksimović 17, Beograd
tel:011-32-39-088
fax:011-322-58-58
e-mail: office@akristic.rs

in the need for citizens to be informed through public service about the impacts of the expansion of mining in the largest copper and gold deposits in the world and the impact on the environment and people's health in Eastern Serbia and beyond.

In the programs of RTS "Eko Perspektive" and "Edu global", topics from the field of environmental protection were discussed in more than 20 cities in Serbia, but none of them concerned topics from Eastern Serbia. Also, these programs covered ecological topics related to other European countries, but not the ecology related to Eastern Serbia.

Legal framework:

The right to be informed is a constitutional right prescribed by Article 51 of the Constitution of the Republic of Serbia, which stipulates:

"Everyone has the right to be truthfully, completely and timely informed about matters of public importance, and the means of public information are obliged to respect that right."

The right to have a healthy environment is a constitutional right prescribed by Article 74 of the Constitution of the Republic of Serbia, which stipulates:

"Everyone has the right to a healthy environment and to timely and complete information about its condition.

Everyone, especially the Republic of Serbia and the autonomous province, is responsible for environmental protection.

Everyone is obliged to preserve and improve the environment."

Law on Public Information and Media (Official Gazette of the RS 83/2014, 58/2015, 12/2016) that was valid at the time of the call for tenders, in Article 15 paragraph 1 point 7 prescribes **that the public interest in the field of public information is also support for the production of media content to protect and develop human rights and democracy, improving the legal and social state, free development of personality and protection of children and young people, development of cultural and artistic creativity, development education, including media literacy as part of the education system, development of science, development of sports and physical culture, and protection of the environment and human health.**

The Law on Public Media Content in Article 2 prescribes that a public media service is an independent legal entity that, by performing its core activity, enables the realization of public interest in the field of public information, and provides general and comprehensive media services that include informative, educational, cultural and entertainment content intended for all parts of society. **Article 3 of the Law on Public Media Content stipulates that the basic activity of a public media service is the realization of the public interest** defined by this law, and includes the production, purchase, processing, and publication of radio, television, and multimedia content, especially informative, educational, cultural and artistic, children's, entertainment, sports, religious and others that are of public interest for citizens, and whose goal is the realization of human rights and freedoms, the exchange of ideas and opinions, the cultivation of the values of a democratic society, the promotion of political, gender, inter-ethnic and religious tolerance and understanding, as well as the preservation of the national identity of the Serbian people and national minorities, as well as the provision of audio and audio-visual

media services and the publication of electronic editions as services of public interest. **Article 7 point 7 prescribes that the public interest, by the law governing the field of public information, which the public media service achieves through its program content,** is the impartial processing of political, historical, economic, social, health, cultural, educational, scientific, environmental and other issues, enabling an equal confrontation of different points of view, and the work of public media content should be based on the principles prescribed in Article 4 of this Law: true, impartial, complete and timely information, independence of editorial policy, independence from funding sources, **prohibition of any form of censorship and illegal influence on the work of the public media service**, newsrooms and journalists, application of internationally recognized norms and principles, especially respect for human rights and freedoms and democratic values, respect for professional standards and codes.

The Law on Public Media Services in Article 10 prescribes that the public media service provides at least 10% of the annual program time or at least 10% of the annual program budget, for audio-visual works of European independent production, excluding the time intended for news, sports events, advertisements, TV sales.

Percentage from paragraph 1 of this article is reached gradually, in accordance with the provisions of the law governing the field of electronic media, respecting the obligation of the public media service to ensure the realization of public interest through informative, educational, cultural and entertainment content.

Program content older than five years can make up at most half of the percentage from paragraph 1 of this article.

Program contents of independent productions from paragraph 1 of this article are selected based on a public competition.

The procedure and criteria for the selection of program content from paragraph 1 of this article are determined in more detail by the general act of public media service.

The criteria for selecting program content from paragraph 1 of this article must be non-discriminatory and in accordance with the program obligations prescribed by this law.

Rulebook on the criteria and method of selection of program content of European independent productions of the Public Media Institution Radio Television of Serbia regulates the criteria and method of selection of program content of European independent productions.

Article 5 paragraph 7 of the Rulebook prescribes that the committee is obliged to meet once a month (at the end of each month) to review the applications received by independent producers in that month and to send proposals for program content applications to the appropriate newsrooms (main and responsible editors of the RTS program and for further action and selection of program content and forwarded the unified proposal to the general director for decision).

According to Article 9 of the Rulebook, the criteria for selecting program contents of independent production are:

- The quality of the script, synopsis, i.e. the recorded pilot program,

- Contribution of the idea, i.e. the content of the program to the public interest,
- Originality of the idea,
- The price and extent of the rights that are assigned,
- Reference of actors, directors, cinematographers, screenwriters, etc.,
- Reference of an independent producer (proper fulfillment of contractual obligations).

Article 10 of the Rulebook stipulates that when making proposals for the selection of program content, the main and responsible editors of the Radio Television of Serbia program must take into account the legal obligations and program goals of RTS.

Article 4 of the Statute of the Public Media Institution prescribes:

"In accordance with the highest ethical and program quality standards, RTS promotes:

1. national and cultural values;
2. media culture and literacy;
- 3. basic human and civil rights;**
4. European and universal values;
5. civil society;
6. diversity and tolerance;
7. solidarity and humanity and protection of minors;
8. creativity and innovation;
9. public trust in RTS;
10. other standards and values prescribed by law."

Article 21 of the Statute prescribes program unity in the operation of RTS, so that it is based on a unique program concept and editing and production of programs based on quality criteria.

Conclusion:

The public media service RTS grossly violated the right of Association Za Drinking Fountains as a participant in the competition for the selection of program content of European independent productions, which will be broadcast on the programs and internet platforms of the Radio and Television of Serbia. The violation of rights consists in the non-transparent and unreasoned behavior of RTS when deciding on the selection of program content of European independent productions, non-decision on the submitted application for a period longer than 6 months from the date of submission of the same (although Article 5 of the Rulebook stipulates that every month the commission reviews the received decisions) and especially bearing in

mind that the topic that is dealt with Association Za Drinking Fountains project is current and important for the public in Serbia.

The conduct of RTS in this particular case can be assessed as acting against the public interest as prescribed by the Law on Public Information and the Media, the Law on Public Media Services, and the Statute of RTS, in the field of environmental protection and human health, and failure to fulfill the obligations of the public of the media service, which is established in Article 10 of the Law on Public Media Services, leads to violations of the rights of independent productions, which will eventually be extinguished by RTS's discriminatory and censorious actions. The lack of programming content of independent productions leads the system to a single-minded and controlled centralized public information system, which is against all the principles of democracy.

Due to the normative lack of content in the Rulebook on the criteria and method of selecting program content of European independent productions of the Public Media Institution Radio Television of Serbia, which does not contain a broader definition of the selection procedure, the mechanism for controlling the legality of the selection through legal remedies, as well as the transparency of RTS' actions after the selection of the content to be broadcast (the content of those contracts), independent productions whose contents were not selected in competitions, would most often give up their activities there, and their work and information that was intended for the public and would contribute to the public interest, perishes.

A possible way to control the operation and legality of the public media service is through the Regulatory Body for Electronic Media, through an application based on the provisions of the Law on Electronic Media (Article 31-45), which regulates the supervision of the work of media service providers. In this sense, and based on the application, the Regulator could be asked to examine the legality of the public tender and the fulfillment of obligations from Article 10 of the Law on Public Media Services - whether at least 10% of the annual program time or at least 10% of the annual program budget was used for audiovisual works of European independent production, excluding time allocated for news, sports events, games, commercials, Teletext and television sales.

Also, in that procedure, the factual allegations of RTS's response from January 5, 2024, could be examined, whether the topic of ecology in Eastern Serbia was covered on RTS within the series of its production - "Eko Perspektive" and "Edu global".

Denying the broadcast of shows that Association Za Drinking Fountains created and submitted to RTS on May 30, 2023, as an independent production, violated the constitutional right of Serbian citizens to be informed about issues of public importance such as pollution and destruction of the environment in Eastern Serbia, which is inseparable important and related to people's health. At the same time, the constitutional right to a healthy environment and full information about its condition was violated by the illegal behavior of RTS as a media service apparently due to the dependence of management policy in RTS on the political interests of the ruling structures in Serbia.

Belgrade, May 28th 2024


ADVOKAT
ŽELJKO Đ. RISTIĆ
BEOGRAD, Desanke Maksimović 17
Tel: 3229-088