



Call-based co-financing of projects of public interest: The analysis of legislative framework in the areas of the media, civil society, culture and youth

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1. Introduction

The institute of call-based co-financing of projects of public interest, both in the field of public information and those related to projects implemented by associations, represents a legislatively prescribed instrument of immense importance for the media and civil sectors' operation. The regulatory framework in this area is not sufficiently developed and does not envisage adequate mechanisms whose implementation would contribute to the integrity and transparency of the process of announcing calls and allocating funds to media outlets and associations.

With the exception of calls for funding of projects in the culture domain, the legal framework **does not set forth a strict obligation to announce calls**, thus leaving too much space for discretionary decision-making by authorities. This deficiency has persisted despite numerous petitions and suggestions from civil society organisations, whose work is significantly influenced by the uncertainty arising from such a legal vacuum. Additionally, trust in the process is not enhanced by the fact that the laws stipulate that **the authority announcing the call is the only one authorised to appoint the commission responsible for evaluating or deciding which project will be supported**. This diminishes the effects of relatively meticulously regulated standards and criteria for the allocation of funds, considering that, ultimately, the human factor plays a crucial role, and the selection of commission members is left to the arbitrary decision of the authorities. Finally, the normative framework **does not provide effective legal protection for participants** in the process since it prevents filing objections in administrative proceedings and only envisages initiating an administrative dispute, which, considering the duration of such processes, does not constitute an efficient legal remedy. An exception is provided only in the field of project co-financing for associations, but even in that case, a severe drawback is the absence of a two-instance process, meaning that in practice, applicants can only address objections regarding the evaluation of the submitted project to the authority that made the decision on the project selection.

Moreover, despite the fact that the regulatory framework, except in the case of project financing for associations, has exhaustively defined the content of the concepts of "**public interest**" and "**general interest**", implementing these standards in good faith **requires the establishment of a participatory process to specify this content in the context of each individual call**. The problem is not diminished by the fact that, although in some sectors declaratively, there are clearly prescribed principal criteria for fund allocation, the practice still records that the political suitability of participants in the call remains the fundamental criterion. Relevant media associations and civil society organisations, such as the Independent Journalists' Association of Serbia,¹ Independent Journalists' Association of Vojvodina,² Press Council,³

¹ "AJAS: Political promotion and propaganda are funded by media calls", Online Media Association, 13.01.2020. , Available at: <https://www.aom.rs/nuns-na-medijskim-konkursima-se-finansira-politicka-promocija-i-propaganda/>

² "The White Paper of Call-based Co-Financing of Public Interest in the Public Information Domain", Independent Journalists' Association of Vojvodina, May 2016. , Available at: <http://www.ndnv.org/wp-content/uploads/2016/06/BelaKnjigaWEB.pdf>

National Youth Council of Serbia⁴ and the Association Independent Cultural Scene of Serbia⁵ have been highlighting for years the trend of increasing abuse of this institute in their monitoring reports on the state of affairs in this area. These reports indicate that, in a large number of cases, public funds distributed in this way are not allocated for co-financing content, let alone public interest, but rather for politically suitable media outlets and other entities.

Concerning the Call-based funding of associations, another significant gap in the regulatory framework has been identified. Namely, the Regulation on the Funds to Stimulate Programmes or the Missing Part of Funds to Finance Programmes of Public Interest Implemented by Associations **does not clearly define the competence of any authority to oversee its implementation**, and consequently, it does not prescribe liability for the violation of its provisions.

Furthermore, the establishment of the Ministry of Human and Minority Rights and Social Dialogue, which led to the termination of the Office for Cooperation with Civil Society, and the imprecise transfer of competences between these two bodies, created a serious gap. Specifically, the competences related to the collection and publication of information on the financing of civil society organisations from the budget were not transferred to the newly established ministry, including the obligation to prepare an annual consolidated report on allocated funds. Having in mind the termination of the Office, it remains questionable whether these crucial issues for associations will be addressed by any authority.

These deficiencies in the legal framework have led to the fact that, in practice, there is no correction but rather a perpetuation of the poor situation in this area. For this reason, the abuse of this institute has become a trend, and an effective mechanism to suppress it has not yet been established. The consequence of numerous and increasingly pronounced irregularities regarding the unequal treatment of media outlets by government authorities is a significant disruption of the balance in the media market. This subsequently makes smaller media outlets, especially those operating at the local level, even more dependent on money allocated in this way. A similar situation is identified regarding the financial sustainability of the work of citizens' associations, especially since there is no established enabling legal framework, and even less developed is the culture of financing the work of associations through private donations. **In such conditions, the financial sustainability of media outlets and associations largely depends on project financing, making this institute even more crucial.** In practice, this means that the survival /sustainability and functioning of a large number of media outlets and associations depend on the intentions and political will of decision-makers in this process, representing an incorrect and unsustainable situation in the long run. Several years of practice indicate that the **area of discretionary decision-making by the authorities allocating funds at the republic, provincial, or local government levels is too broad,**

³ "Co-funding media outlets violating the Code of Ethics", Press Council, June 2020. , Available at: <https://savetzastampu.rs/wp-content/uploads/2020/12/Izves%CC%8Ctaj-Sufinansiranje-medija-koji-krse-eticke-standarde.pdf>

⁴ "The analysis of calls for financing and co-financing programmes and projects by the Ministry of Youth and Sports", National Youth Council of Serbia, 06.07.2021. , Available at: <https://koms.rs/2021/06/07/analiza-konkursa-za-finansiranje-i-sufinansiranje-programa-i-projekata-ministarstva-omladine-i-sporta/>

⁵ "Press Conference on the occasion of publishing the results of the annual call of the Ministry of Culture of the Republic of Serbia and Culture Secretariat of the City of Belgrade", The Association Independent Cultural Scene of Serbia, 29.06.2021., available at: <https://nezavisnakultura.net/2021/06/29/konferencija-za-medije-povodom-objavljanja-rezultata-godisnjeg-konkursa-ministarstva-kulture-republike-srbije-i-sekretarijata-za-kulturu-grad-a-beograda/>

and their powers in this regard are not in line with the accountability that should accompany such decisions. **In the reality in which the majority of media outlets and associations operate, the decisions of government authorities are of existential importance for their existence.**

2. The Call-based Project Co-Financing in the Field of Public Information

Project co-financing in the area of public information was more specifically regulated for the first time in the **Strategy on the Development of the Public Information System in the Republic of Serbia until 2016**⁶. In this now-expired document, it is stated that the Republic of Serbia will "ensure funds through project financing for the content of public interest produced by the printed media, with the aim of encouraging diversity of opinion and the right of the population to content that would not be sustainable solely in market conditions."

In line with the goals outlined in the previous Strategy, Call-based call based co-financing is further specified by the provisions of the **Law on Public Information and Media**⁷, (hereinafter referred to as: LPIM), as well as the **Rulebook on the Co-Financing of Projects for Exercising Public Interest in the Area of Public Information**⁸ (hereinafter referred to as: the Rulebook). Article 17 of the Law on Public Information and Media states that the Republic of Serbia, autonomous province, or local self-government units allocate part of the funds from the budget for exercising public interest in the area of public information and distribute them based on conducted public calls and individual grants. The same article further prescribes that these funds are allocated based on the principles of granting state support and protecting competition, with a special note that this allocation is undertaken without discrimination. The basic principles regarding the announcement of calls, their content, the right and conditions for participating in the call, the procedure for appointing commission members, decision-making, and reporting on conducted activities are regulated by this law.

These issues are then further elaborated in the accompanying rulebook, which sets forth the form for applying for fund allocation in the call, as well as the format for submitting a narrative and financial reports. It is noticeable that the legal framework regulating project co-financing in the area of public information is much more detailed than that regulating the Call-based funding process for programmes and projects of associations, which will be discussed in the second part of the analysis. Also, a positive solution is that in the field of media co-financing, the call-implementing procedure is mainly defined by the Law on Public Information, while in the area of Call-based funding for citizen associations, the procedure is prescribed by the Regulation on the Funds for Stimulating Programmes or the Missing Part of Funds for

⁶ The Strategy of the Public Information System Development in the Republic of Serbia by 2016, (*Official Gazette of RS*", No. 75 of 7 October 2011), available at: <https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/vlada/strategija/2011/75/1/reg>

⁷ The Law on Public Information and Media (*Official Gazette of RS*", No. 83/2014, 58/2015 and 12/2016- authentic interpretation), Available at: <http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2014/83/4/reg>

⁸ The Rulebook on Co-Funding of Projects to Exercise Public Interest in the Area of Public Information, (*Official Gazette of RS*", No. 16/2016 and 8/2017), available at: <http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/ministarstva/pravilnik/2016/16/9>

Financing Programmes of Public Interest Implemented by Associations, which is a subordinate legal document.

As the respective article stipulates that the funds for financing projects in the area of public information are allocated in line with the general rules on the state aid award, the legal framework in this area further includes the **Law on the State Aid Control**⁹, and related Regulations.

The new **Strategy of the Public Information System Development in the Republic of Serbia for the period 2020- 2025**¹⁰, adopted on 30 January 2020, recognises the deficiencies in the project-based system in the area of public information as one of the key challenges. It also indicates that multiple problems were identified in the implementation of the public funds' allocation system via project-based financing, mainly identified by the monitoring of this process conducted in the country, but also in the negative European Commission Serbia Progress Reports. It additionally focuses on economic pressures of local authorities, their failure to announce calls, allocating insufficient funds for project-based financing, non-compliance with legal provisions and bylaws, and favouring particular media outlets in funds' allocation, all of which have become a predominant form of pressure in the past period, used to influence the position of local media.

⁹ The Law on State Aid Control (*"Official Gazette of RS"*, No. 73/ 2019), available at: <https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2019/73/1>

¹⁰ The Strategy of the Public Information System Development in the Republic of Serbia for the period 2020-2025 (*"Official Gazette of RS"*, No. 11 of 7 February 2020.), available at: <https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/vlada/strategija/2020/11/1>

2.1. Public interest in the area of public information

The previous media strategy identified the determination of public interest in the area of public information as the primary goal of media reform. It states that the public interest in this area is primarily represented by "exercising the right of the public to be informed" and that the role of independent and professional media and a developed media system is to enable meeting the needs of the citizens of the Republic of Serbia "for information and content from all areas of life" without discrimination. It is also in the public interest to "provide diverse and quality media content for all individuals and social groups: professional, age-related, educational, as well as all minority groups: ethnic, religious, linguistic, and sexual, groups with special needs, and others."

In accordance with the above, the Law on Public Information and the Media defines public interest as:

- truthful, impartial, timely, and complete information for all citizens of the Republic of Serbia;
- truthful, impartial, timely, and complete information in the mother tongue for citizens of the Republic of Serbia belonging to national minorities;
- information in the Serbian language for members of the Serbian people living outside the territory of the Republic of Serbia;
- preservation of the cultural identity of the Serbian people and national minorities living in the territory of the Republic of Serbia;
- informing the foreign public in foreign languages when it is of interest to the Republic of Serbia;
- informing persons with disabilities and other minority groups;
- support for the production of media content to protect and develop human rights and democracy, improve the legal and social state, free personal development, protect children and youth, develop cultural and artistic creativity, and develop education, including media literacy, as part of the education system, develop science, develop sports and physical culture, and protect the environment and human health;
- enhancing media and journalistic professionalism.

The same article further prescribes the obligation of government authorities at all levels to ensure exercising the public interest by encouraging the diversity of media content, freedom of expression of ideas and opinions, and the free development of independent and professional media, contributing to meeting the citizens' needs for information and content from all areas of life, without discrimination. It also states that one of the ways to exercise the public interest, in addition to establishing public services at the national and provincial levels, is project co-financing, among other things.

Although it is evident that the legislator has devoted more attention to defining public interest in the area of co-financing media content than elaborating on the same concept in the field of financing association programmes and projects, the legal framework still lacks a clear provision for the prior procedure for determining public interest or prioritising areas where public interest media content is lacking. This would contribute to improving the quality of public debate on all relevant social issues. To ensure that budget financing of certain content indeed serves the public interest, it is necessary to legislate a transparent and participatory procedure for determining the public interest, which would be a precondition for announcing calls.

2.2. Obligation to Announce Calls and their Content

The Law on Public Information and the Media prescribes that the Republic of Serbia, autonomous province, and local self-government units allocate part of their budgets for exercising public interest in the area of public information and distribute them based on conducted public calls, according to the principles of granting state aid and protecting competition, without discrimination. As the previous Strategy on the Development of Public Information System and subsequent media laws have foreseen the complete withdrawal of the state from the media, establishing a system of project co-financing, especially to secure funds for content of public interest that "would not be sustainable in market conditions alone," the ambiguity of regulations regarding the obligation to announce calls leads to cases where certain local self-government units fail to announce calls for years or allocate minimum amounts for media content co-financing through calls. In this regard, the example of Kragujevac is particularly indicative, where a media call was announced in early 2021¹¹ for the first time after the project co-funding was introduced.

Referring to the definition of public interest outlined in the previous article, the Law further prescribes the obligation of government authorities at the central, provincial, and local levels to decide on the calls announced during the calendar year. According to Article 5 of the Rulebook, sets forth an obligation of each authority that announces a general call to also allocate funds to enhance the quality of informing persons with disabilities and raise the quality of informing members of national minorities. These calls may be part of the general call or announced separately. It also emphasises the obligation to announce a special call under the competence of the Ministry of Culture and Information, which concerns informing the population in the territory of AP Kosovo and Metohija.

In addition to producing media content, calls are also announced for organising expert, scientific, and occasional events, as well as for raising professional and ethical standards in the area of public information, with the stipulation that no less than 90% of the funds should be allocated for content production.

Calls are announced in the form of a public call and published on the website of the authority allocating the funds, as well as in at least one daily newspaper. The announcement must contain essential information, including:

- the public interest that will be co-financed through the call;
- the amount of funds allocated for the call;
- the minimum and maximum amounts approved per project;
- eligible participants;

¹¹ "The first call for financing media content of public importance announced in Kragujevac", Danas, 26.1.2021., available at: <https://www.danas.rs/ekonomija/u-kragujevcu-raspisan-prvi-konkurs-za-sufinansiranje-medijskih-sadržaja-od-javnog-znacaja/>

- criteria for project evaluation used for fund allocation;
- precise deadlines for the call implementation;
- information on the documentation required from the applicant;
- invitation to journalists, media associations, and media professionals interested in participating in the work of the commission.

The obligation to disclose the minimum and maximum amounts that can be allocated to an individual project represents a positive provision; however, it could be enhanced by prescribing the method for determining the total amount of funds allocated in the call, as well as the minimum and maximum amounts for individual projects.

2.3. Eligibility Criteria and the Right to Participate in the Call

According to the Law on Public Information and the Media and the Rulebook, the right to participate in the call for co-financing media content is granted to:

- media publishers whose media outlets are registered in the Media Register maintained by the Business Registers Agency;
- legal entities or sole proprietors engaged in the production of media content holding evidence that the co-financed media content will be realised via a media outlet registered in the Media Register.

On the other hand, it is explicitly stated that the right to participate in the call is not granted to:

- media publishers funded from public revenues;
- individuals or entities that, in the previous period, received funds intended for project co-financing, did not submit narrative and financial reports within the contractually specified deadline and in the required format, and individuals determined to have misused the funds.

A media outlet can apply with only one project in a single call, while a publisher with multiple media outlets can apply with separate projects for each of their media outlets individually. A project is defined as a programmatic, genre-specific, and time-related whole or part of a whole that contributes to achieving the public interest in the area of public information. The Rulebook specifies that the amount requested for project co-financing cannot exceed 80% of the project's value, with an additional limitation that it cannot exceed the maximum amount approved per project as specified for that particular call. A participant to whom funds have already been allocated for the co-financing of a specific project in the same calendar year can apply for funds for the same project only once more in that year, in an amount that, combined with the funds already received, does not exceed 80% of the project's value.

As indicated in Article 17 of the Law on Public Information and the Media, the funds allocated for project co-financing fall under the category of *de minimis* state aid. Therefore, regarding these funds, the limitation stated in the Regulation on the rules and conditions for granting small-value aid (*de minimis* aid)¹² applies. This Regulation stipulates that *de minimis* aid can be granted to one market participant up to the amount of RSD 23,000,000 in any period within three consecutive fiscal years, encompassing the current year and the previous two fiscal years. Accordingly, a media publisher or legal entity, i.e., a sole proprietor engaged in the production of media content, cannot be awarded funds exceeding the specified amount for three consecutive years, regardless of the number of different calls and the number of different funding providers (budgets) they apply to with their projects.

¹² The Regulation on the Rules and Conditions for Awarding Small-Value Aid (*de minimis* aid), (*Official Gazette of RS*”, No. 23/21), available at: [http://www.kkdp.gov.rs/doc/propisi/Uredba-o-pravilima-i-uslovima-za-dodelu-pomoci-male-vrednosti\(de-minimis-pomoci\).pdf](http://www.kkdp.gov.rs/doc/propisi/Uredba-o-pravilima-i-uslovima-za-dodelu-pomoci-male-vrednosti(de-minimis-pomoci).pdf)

2.4. The project evaluation criteria

According to the Law on Public Information and the Media, the criteria based on which the commission appointed by the funding authority decides on received applications and determines which project will receive co-financing are narrowed down to two fundamental criteria:

- the extent to which proposed project activities are **suitable for achieving the general interest** in the area of public information, in accordance with the definition of public interest;
- the extent to which the applicant provides a greater **guarantee of commitment to professional and ethical media standards based on the submitted documentation.**

Although these two criteria are broadly set, they are elaborated in more detail in Article 18 of the Rulebook.

The Rulebook specifies that the evaluation of **the extent to which the project contributes to achieving the public interest** is particularly considered in light of the following criteria:

- **Project relevance**, actually its significance in exercising public interest in the area of public information, compliance with the purpose of the call, alignment with actual problems, needs, and priorities of target groups, and identified and clearly defined needs of such groups, representation of innovative elements in the project, and journalistic investigative approach;
- **Project impact and feasibility** from the perspective of alignment of planned activities with goals, expected results, and needs of target groups; the level of project's impact on the quality of information for the target group; measurability of indicators enabling project monitoring; elaboration and feasibility of the project implementation plan; and the degree of development and financial sustainability of the project, i.e., the possibility of continuing its positive effects after the support ends.
- **Institutional and professional capacities of the applicant** from the perspective of organisational and managerial capabilities, necessary resources for project implementation, and applicant's expert and professional references corresponding to the proposed goals and activities of the project.
- **Budget and justification of project costs** from the perspective of precision and elaboration of the budget demonstrating the alignment of the projected costs with project activities, as well as the economic justification of the proposed budget in relation to the goal and project activities.

Furthermore, the extent to which a participant in the call provides **a greater guarantee of commitment to professional and ethical media standards** is documented by data on measures imposed on the media by the Regulatory Body for Electronic Media and/or the Press Council due to violations of professional and ethical standards in the past year. Alternatively, proof that activities have been taken to ensure that a similar case will not recur after imposing

penalties or measures.

It can be inferred from the above that the selection of projects considers the project itself, its capacity to contribute to the public interest in the area of public information, the capacities of the applicant to implement the proposed project, and its previous references regarding adherence to professional and ethical standards or the absence of previously imposed sanctions for violations of regulations or codes of professional ethics, or evidence that sanctions have had a positive effect. Despite these criteria which represent a mandatory minimum, the Rulebook allows the funding authority to specify additional criteria for a specific call through its own act.

However, despite the detailed criteria, which represent a positive example compared to vague normative solutions in the legal framework for financing the projects and programmes of associations, the practice has shown that the provisions of the Rulebook are rarely adhered to. This is most evident regarding the provision requiring the funding authority to verify the commitment of the applicant to professional and ethical standards. In practice, in most cases, funding authorities do not consult the Press Council, the competent body the Rulebook obliges them to gather relevant data on sanctions from. Even in rare cases when they do, they habitually ignore their recommendations¹³.

¹³ "Almost EUR 13.5 million for media in 2019, the money again awarded to the Code violators", Raskrikavanje, 17.06.2020, available at: <https://www.raskrikavanje.rs/page.php?id=Skoro-135-miliona-evra-za-medije-u-2019-novac-i-dalje-ide-prekrsiocima-Kodeksa-683>

2.5. The Commission implementing the Call

The evaluation of projects submitted to the call is carried out by an expert commission, which, according to the Law on Public Information and the Media and the Rulebook, can consist of three or five members. The commission is formed separately for each announced call, and its members are appointed by the authority from the ranks of "independent media experts" and media professionals who are not in a conflict of interest and do not hold public office. According to Article 30 of the Rulebook, these terms should be interpreted in accordance with the Anti-Corruption Law and other regulations in the field of anti-corruption policy. It is worth mentioning that the legal framework for financing the programmes and projects of associations is poorly regulated in this aspect. Specifically, when it comes to calls for associations, the existing regulations allow the funding authority complete freedom to regulate the composition and functioning of the commission according to its own rules. There is no restriction on the number of members appointed to the commission, not even an obligation for the commission to have an odd number of members, which is a basic prerequisite for decision-making. Additionally, the concept of a conflict of interest in the legislation applicable to calls for associations is insufficiently precisely defined and would be improved by referring to the Anti-Corruption Law or other relevant regulations, as has been done here.

The Law on Public Information and Media further states that the majority of commission members (two or three members) are appointed based on the proposal of journalist and media associations, if such a proposal exists. Otherwise, the head of the funding authority will appoint them at their discretion. As mentioned earlier regarding the obligation to announce the content of the call, each public call for co-financing, along with other mandatory information, must also include an invitation to journalist and media associations and media experts to submit proposals for commission members within a specified period, along with their CVs. If proposals are not received within the prescribed period, the head appoints commission members from the ranks of media experts and media professionals. It is necessary to clearly define the term "media expert" or "independent media expert" and the criteria for assessing their expertise in the legal framework since the existing solution leaves too much discretion to the heads of the authorities to choose commission members based on political suitability rather than documented experience and reputation in the area of information.

Journalist and media associations registered at least three years before the call announcement date have the right to propose candidates for commission members, providing evidence when submitting candidate proposals. The decision on the appointment of the commission is made in the form of a decision, published on the website of the authority announcing the call. This decision sets the rights and obligations of commission members.

While the commission decides on the evaluation of submitted projects, the expert service of the authority announcing the call administratively conducts the competition procedure and provides expert and technical assistance to the commission. Among other things, one of the tasks of the expert service is to verify the documentation submitted to the call, i.e., the fulfillment of eligibility criteria and compliance with deadlines, and to create a record for all submitted

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projects, which is then submitted to the commission members. Also, when it comes to calls for informing national minorities, the expert service obtains the opinion of the Council for National Minorities, which the commission is obliged to consider when making decisions.

At the first session, the commission elects a president who will coordinate the work and lead the commission's sessions, while the secretary of the commission, who is not a commission member, is appointed by the expert service of the authority announcing the call from its ranks. After reviewing the documentation for the call, each commission member makes a statement that they are not in a conflict of interest. The commission keeps minutes of its work, and each commission member independently evaluates each project based on the set criteria. After completing their work, the expert commission prepares a written explanation stating the reasons for accepting or rejecting a specific project and submits a reasoned proposal based on which the head of the funding authority makes a decision.

2.6. Decision-making

The decision on the allocation of funds in the form of a reasoned decision is made by the head of the authority that announced the call, based on the reasoned proposal of the commission, no later than 90 days from the date of closing the call. In addition to the decision on the distribution of funds with a rationale, the funding authority publishes on its website the commission's proposal for the allocation of funds, as well as information for all applicants who received a smaller amount of funds than requested, to promptly submit a new cost breakdown or information that they are renouncing the funds awarded to them. Since, according to the Law on Public Information and Media and the Rulebook, the act of making the final decision is left to the discretion of the head of the authority, a question has arisen in practice about whether and to what extent the head is bound by the commission's proposal. If this provision is not interpreted to mean that the head merely formalises the commission's decision with the formal decision, but possesses a certain discretionary power to intervene in the text of the decision, which has happened in practice, the role of the expert commission would be completely meaningless. For this reason, it is necessary to clearly define in the legal framework the obligation of the head of the authority not to deviate from the proposal submitted by the commission appointed for the call when making the decision.

The official decision is published on the website of the authority that allocated the funds and sent electronically or scanned to the applicants. In the legal framework for financing the projects and programmes of associations, there is no obligation for the authority to provide the decision on the allocation of funds directly to the candidates, only to publicly announce it on its website and the eGovernment platform. Directly providing the decision to the candidates represents a good solution, which would be further improved by prescribing the obligation for approved financial and narrative reports on implemented projects to be made available to the public. This would increase the transparency of the entire process and contribute to a facilitated systemic and long-term monitoring of budget spending.

The decision is final, and an administrative dispute can be initiated against it. Unlike the legal framework for the Call-based financing of associations, which provides the opportunity for participants in the call to file objections to the evaluation of their projects within 15 days from the publication of the ranking list, which precedes the final decision, an administrative action is currently the only mechanism for protecting the rights of participants in the calls for the co-financing of media content. Given the length of these procedures, the costs incurred by initiators of such disputes, and the fact that they cannot influence the outcome of the call since the funds are already distributed by the time the procedure is completed, this mechanism is rarely used in practice.

2.7. Monitoring and evaluation of projects

Based on the decision on the allocation of funds, a contract is concluded between the funding provider and the recipient of funds, serving as the basis for monitoring the co-financed project. For this purpose, the Rulebook stipulates that the authority announcing the call, upon the completion of project co-financing in the current year, may prepare a report on the conducted call and an analysis of the quality of supported projects based on reports of beneficiaries. This information can be published on their website, and the authority may engage independent media experts or media professionals for this purpose. To enhance project evaluation, instead of making it optional, it is necessary to impose an obligation on the funding authority to monitor the quality of co-financed content and to compile and publish an analysis of the effects of funding from the perspective of exercising the public interest.

According to the Rulebook, the authority of the Republic, province, or local self-government that announced the call is obligated, within 15 days from the day of making the decision on the allocation of funds, to report to the Media Register the data on the amount of allocated funds. After completing the project, the beneficiary is obliged to submit to the funding provider narrative and financial reports, along with evidence of project implementation, in the prescribed format and within the deadline specified in the contract. If the beneficiary fails to comply, the funding provider sends a request for the reimbursement of funds. A commendable solution from the legal framework for co-financing media content, unlike the framework for associations, is the provision of standardised forms for submitting applications, as well as for narrative and financial reports. This standardisation leads to consistency in practices at all levels of fund allocation and facilitates project monitoring. It would be further enhanced by prescribing the obligation for the funding authority to make approved financial and narrative reports on implemented projects available to the public, thus increasing the overall process's transparency.

The evaluation of projects, coupled with a lack of oversight, represents the weakest part of the implementation of the project co-financing mechanism, both for media outlets and associations. Previous practice has shown that evaluating projects solely through the submission of narrative and financial reports is not suitable for adequately assessing the achievement of public interest goals. Similar to calls for associations, consideration should be given to involving other authorities, in addition to the funding provider itself, in monitoring the effects of call co-financing. Ensuring public access to information on the implementation of programmes and projects funded by public money is crucial. Considering numerous complaints about the transparency of the process and the effects of budget allocation in the field of co-financing media content, introducing public scrutiny as a principle of financial support in this area would demonstrate a commitment to enhancing the transparency of the entire process.

3. Call-based financing of programmes and projects of associations

The Call-based funding of association programmes that can be considered programmes of public interest is primarily regulated by the **Law on Associations**.¹⁴ In Article 38 of this Law, it is stipulated that funds to support these programmes, or the missing part of the funds for their financing, are provided from the budget of the Republic of Serbia, autonomous province, or local self-government. Based on an announced public call, the government or the ministry responsible for the area in which the association achieves its goals, the autonomous province, or local self-government allocate funds and conclude contracts for the implementation of approved programmes or projects.

According to this article, the procedure for announcing and conducting calls, decision criteria, monitoring and evaluation of selected projects, as well as the process of fund allocation, the method, and procedure for their refund are further defined by the Regulation on the Funds for Stimulating Programmes or the Missing Part of the Funds for Financing Programmes of Public Interest Implemented by Associations (hereinafter referred to as: the Regulation).¹⁵ This Regulation is applied by funding authorities at all levels—ministries, autonomous province authorities, and local self-government authorities—during the implementation of public calls for associations. According to the Regulation, these authorities are free to adopt their own acts (rulebooks, decisions, etc.) to further regulate certain important issues, such as the concept of public interest, the organisation of commissions, and criteria for selecting programmes, all leading to inconsistent practices. The fundamental weakness of this bylaw lies in the level of its legal force. Unlike the Call-based funding of media, primarily regulated by the Law on Public Information, the Regulation, as a bylaw, has no supervisory authority explicitly overseeing its implementation, nor is there accountability for violations of its provisions.

Apart from the Regulation, which will be discussed in more detail later and represents the central regulation governing the Call-based funding of association programmes, there are several other sector laws and regulations directly related to project funding, specifying specific procedures for fund allocation via public calls. Sectors where allocation of funds via public calls is undertaken outside the Regulation include the **youth sector** (Youth Law, Rulebook on Financing and Co-financing Programmes and Projects of Public Interest in the Youth Sector) and the culture sector (Culture Law, Regulation on Criteria, Standards, and the Procedure for Selecting Projects in the Area of Culture Funded and Co-funded from the Budget of the Republic of Serbia, Autonomous Province, or Local Self-Government).

¹⁴ Law on Associations, ("Official Gazette of RS", No. 51/2009, 99/2011- other law, 44/2018 - other law), available at: <http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2009/51/6/reg>

¹⁵ The Regulation on funding and co-funding of programmes of public interest (Regulation on funds to stimulate programmes or the missing part of funds to finance programmes of public interest implemented by associations ("Official Gazette of RS", No. 16/2018), available at: <http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/vlada/uredba/2018/16/2/reg>

Another specificity is the annual call of the Ministry of Justice, which allocates **funds raised on the basis of deferred prosecution** (opportunity principle) based on Article 7 of the Criminal Procedure Code. These funds are allocated through a procedure outlined in a separate rulebook.¹⁶ This call is open to both individuals and legal entities, provided that the specific project seeking funding serves a public interest, and typical beneficiaries include schools, hospitals, libraries, kindergartens, as well as associations and cultural-artistic societies. The rulebook governing the allocation of these funds also contains a provision allowing, upon the request of an individual, and by decision of the commission, the allocation of funds outside the call for the treatment of a child abroad.

¹⁶ Rulebook on the allocation of funds raised on the basis of deferred prosecution, available at: <https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/ministarstva/pravilnik/2019/20/8>

3.1. Public interest in calls focused on associations

Public interest in the context of project funding for associations is not adequately defined. At the legislative level, the concept of programmes of public interest is only narrowly defined in Article 38, paragraph 3 of the Law on Associations, listing areas for which it is "particularly" considered that the public interest is exercised by implementing programmes and projects in their domain. This list is not exhaustive (ending with the formulation "[...] and other programmes where the association exclusively and directly follows public needs"), leaving funding authorities free to pass acts specifying public interest in the context of specific needs in a particular sector or in the territory of a specific local self-government. The areas explicitly listed in the Law are as follows:

- social protection;
- protection of veterans of war/ veterans with disabilities;
- protection of persons with disabilities;
- societal childcare;
- protection of internally displaced persons from Kosovo and Metohija and refugees;
- stimulating childbirth;
- assistance to senior citizens;
- health care;
- protection and promotion of human and minority rights;
- education;
- science;
- culture;
- information;
- environmental protection;
- sustainable development;
- animal protection;
- consumer protection;
- anti-corruption.

Although the Law on Associations recognises these 18 areas as areas of public interest, the Regulation as a piece of secondary legislation does not directly refer to this article, nor does it independently approach defining what public interest means in the context of Call-based funding. The drafters of the Regulation touched on this issue only in Article 3 when defining the concept of programmes, stating that funds from the budget support programmes "implemented by associations that are of public interest in accordance with the provisions of this Regulation and acts of the competent authority adopted in line with the provisions of the law and this Regulation." This solution, leaving it to ministries, provincial authorities, and local self-government authorities to define areas of public interest through their own act, leads to inconsistent practices, and amendments to the Regulation should complement this regulation with a clear definition of areas of public interest, relating it to existing solutions in the Law on Associations.

3.2. Obligation to Announce Calls and their Content

Article 38 of the Law on Associations stipulates that funds to stimulate programmes or the missing part for financing programmes of public importance implemented by associations are provided from the budget of the Republic of Serbia, autonomous province, or local self-government, and are allocated via a public call. With the adoption of the Regulation in 2018, funding authorities are obligated to create an Annual Plan for announcing public calls, which includes information on who provides funds for projects/programmes in areas these funds are intended for, and the period of announcing calls in the coming year. Authorities at all three levels of government are further obliged to publish the annual plan on their official website by 31 January of the current year and submit it to the Office for Cooperation with Civil Society, which makes the collected data publicly available on its website under the searchable electronic application "Calendar of Public Calls."

With the abolition of the Office for Cooperation with Civil Society in October 2020 and the establishment of the Ministry of Human and Minority Rights and Social Dialogue, the obligation to collect data and create the Calendar of Public Calls has *de facto* shifted to the jurisdiction of the new ministry. However, the Law on Ministries did not explicitly transfer any of the competences of the former Office concerning the collection and publication of information on the financing of civil society organisations from the budget, including the obligation to create an annual consolidated report on allocated funds. The last such report was published at the end of 2018 and concerns funds allocated in 2016. This report contains data from authorities at all three levels of government (local, provincial, national) on financial and non-financial support to associations, but this data is provided based on requests for data, not a legal obligation. To increase transparency in this area, it is necessary to specify the competences of the Ministry for Human and Minority Rights regarding the creation of a calendar of public calls and the preparation of an annual report on financing and prescribe a legal obligation for administrative authorities to submit data on allocated funds to the Ministry.

According to the Regulation, the call, which is announced on the website of the competent authority and the eGovernment portal, must contain the following information:

- one or more related areas of public interest;
- who can participate in the call; deadline for submitting applications;
- the amount of funds allocated;
- an overview of the call documentation that needs to be submitted, along with a completed programme proposal form;
- programme duration;
- detailed criteria and additional criteria for evaluating submitted programmes, with a clear system for evaluating each individual criterion,

or a reference to the Official Gazette in which the regulation specifying detailed criteria and additional criteria for evaluating programmes is published.

Unlike calls for co-financing media content, there is no obligation for the funding authority to specify the minimum and maximum amount of funds approved per project in the public call. As the current practice is very inconsistent regarding the amounts of individual support, and there is no obligation to define the minimum and maximum support amounts in advance, it often happens that approved amounts are several times lower than expected. This puts associations at a disadvantage because they cannot implement the planned level of activities with smaller amounts. For this reason, it would be necessary to prescribe the specification of the minimum and maximum amount of an individual project as a mandatory element of the public call, following the solution that exists in media funding calls.

3.3. Eligibility Criteria and the Right to Participate in the Call

An association, as defined by the Regulation, is a "voluntary and non-governmental non-profit organisation based on the freedom of association of several individuals or legal entities, established to achieve and improve a specific common or general goal and interest, not prohibited by the Constitution or law, registered in the register maintained by the competent authority in accordance with the law." This definition encompasses both citizen associations, registered in accordance with the Law on Associations, as well as endowments and foundations regulated by a special law. This places informal initiatives and grassroots organisations (organisations in the early stages of development/social activism organisations) outside the scope of budget support through public calls because registration is a prerequisite for participating in the call. According to the Regulation, competent authorities, ex officio, determine whether the association applying for the call is registered in the register of the competent authority and review its statute to establish whether the objectives of the association thematically align with the area in which the programme is implemented.

In contrast to the Regulation on the Co-Financing of Projects in the Field of Public Information, which stipulates that individuals who have received funds for project co-financing in the previous period and have not submitted a narrative and financial reports within the contracted deadline and in the prescribed form, as well as individuals found to have misused such funds, will not have the right to participate in the call, the Regulation only potentially considers the previous misuse of funds by the project applicant as an aggravating factor, not as an obstacle to participation. Additionally, the failure to submit financial and narrative reports is not explicitly mentioned as a criterion in the Regulation. Article 6 of the Regulation states that the funding provider, when evaluating programmes, "will take into account whether it has terminated a contract with the association in the previous two years due to the misuse of budgetary funds."

3.4. The project evaluation criteria

According to the Regulation, the criteria applied in the selection of programmes are as follows:

- 1) **programme references:** the field in which the programme is implemented, its duration, the number of covered beneficiaries, and the potential for development and sustainability;
- 2) **achieved objectives:** the extent to which the programme satisfies public interest and improves the state in the field in which it is implemented;
- 3) **co-financing of programmes from other sources:** own revenues, the budget of the Republic of Serbia, autonomous province, or local self-government unit, funds from the European Union, gifts, donations, bequests, loans, and others;
- 4) **legality and efficiency of fund use and sustainability of previous programmes:** if budget funds have been used before, whether contractual obligations have been fulfilled.

It is further stipulated that the funding provider will determine specific criteria for selecting programmes using these criteria, as well as additional criteria specific to a particular field.

The way the criteria are formulated makes it clear that further elaboration and prioritisation are necessary. It is also apparent that they are very general compared to the legal framework for co-financing media content, and it would be possible and desirable to define them more closely, following the solutions in the Regulation on the Co-Financing of Projects in the Area of Public Information. Although the Regulation leaves a very broad space for funding providers to prescribe their own criteria, in practice, criteria for financing individual programmes and projects often remain at the level of formulations set out in the Regulation, which, due to their generality, are difficult to apply as prescribed. To standardise practices in this area, it would be desirable for the criteria for selecting programmes or projects to be determined as much as possible by this Regulation, reducing the discretionary space given to funding providers in prescribing criteria. Also, it is necessary to introduce compliance with the strategic documents of the relevant authority in various areas of public interest as a criterion, in line with the indicators set in the Guidelines for EU Support to Civil Society.

In addition to specifying criteria and their prioritisation, a standardised form for submitting programmes/projects would contribute to a more predictable and transparent decision-making process.

3.5. The Commission implementing the Call

According to the Regulation, the competent authority establishes a commission to conduct the call and, by its act, regulates the composition of the commission, the number of members, and other issues significant to its work.

It is evident that the Regulation, as the umbrella document, entirely leaves it to the funding provider to determine the composition of the commission and the decision-making process. These provisions are so vague that even the basic criterion for the commission's work - an odd number of members - is not mandatory. To standardise the practices of competent authorities, it is necessary for the Regulation to regulate procedural rules as much as possible, primarily the composition of the commission and the decision-making process, which have proven to be the most contentious in practice.

Also, to ensure transparent and equal distribution of funds, it is necessary to introduce the mandatory participation of representatives of civil society according to criteria that will ensure representativeness. The Regulation states that "persons representing the expert public" may be appointed to the commission, and the competent authority has the option to engage experts for specific areas to prepare analyses of the success, quality, and achievement of the goals of the programmes being implemented. As in other places, the funding provider is to prescribe "closer standards and criteria" and the procedure for selecting these experts in its act. However, it is impossible to prescribe "closer standards and criteria" if the Regulation does not provide any, so for the sake of standardising practices, it is necessary to specify some criteria or how they are determined in the Regulation. For the purpose of increasing transparency, the participation of representatives of the interested public, in this case, civil society, in commissions implementing the call should be made mandatory, following the model of the framework for co-financing media content.

The Regulation obliges commission members to sign a statement before taking any action in that role that they have no private interest in the implementation of the calls. The content of this statement and the procedure to prevent conflicts of interest are prescribed in the funding provider's internal act. According to the Regulation, in case of knowledge of a conflict of interest, the commission member is obliged to immediately inform other commission members and withdraw from further work. It is further stated that the competent authority decides on resolving the conflict of interest in each case separately and, when it establishes a conflict of interest, will appoint a new person to the commission as a replacement for the member in whose regard a conflict of interest is found.

Although this is a crucial issue for ensuring the fairness of public calls and preventing potential corrupt actions, the legislator has failed to precisely define the concept of conflict of interest in the Regulation. According to the Regulation, a conflict of interest exists "if a commission member or members of their family (spouse or partner, child, or parent), employees or members of the association participating in the competition or any other association connected in any way with that association, or in relation to those associations have any material or immaterial interest, contrary to the public interest, in cases of family ties, economic interests, or other

common interests". Unlike regulations governing media calls, the Regulation *per se* sets no obstacles to public officials being appointed as commission members. It is necessary to specify in this document what constitutes a conflict of interest, partly through general provisions and partly through an exhaustive list of situations that are always considered a conflict of interest, following the solutions present in the Law on the Prevention of Corruption (Anti-Corruption Law).

Although the funding provider is given a wide space by the Regulation to prescribe the most important issues related to the composition and operation of the commission by its internal act, it is explicitly prescribed by the Regulation that commission members do not receive compensation for their work. In the case of ensuring the participation of the interested public in the membership of commissions implementing calls, with a transparent and fair procedure for their election, there is no obstacle for commission members to receive compensation for their work.

3.6. Decision-making

The Regulation stipulates that the commission determines the evaluation and ranking list of submitted programmes within 60 days from the expiry of the deadline for submission. The ranking list of programmes is then published on the official website of the funding authority and on the eGovernment portal. According to the applicable regulations, there is no obligation for the authority to publish information on the evaluation according to individual criteria, which reduces the transparency of the ranking process. It would be desirable for the Regulation to prescribe clear and predictable rules for evaluation and for the authority to commit to publicly highlighting how each programme is ranked according to each criterion when publishing the ranking list. The publication of the application of criteria for each submitted programme would, in addition to ensuring the transparency of the process, also reduce pressure on competent authorities in terms of requests for access to information of public importance. Such requests are very common due to a lack of information that is proactively published, generating distrust in the relationships between associations and administrative authorities as funding providers.

Applicants have the right to access submitted applications and accompanying documentation within three working days from the date of publication of the ranking list, and they can file an objection about the results of the ranking within eight days. The funding authority decides on the objection within 15 days of its receipt and is obliged to justify its decision. The competent authority makes its final decision on the selection of programmes within 30 days from the expiry of the deadline for submitting objections, which is then published on the official website of the competent authority and the eGovernment portal.

The objection-filing procedure set up in this way is problematic on multiple grounds. First, the stated solution leaves it unclear in which cases the objection could be rejected as unjustified; namely, the reasons were not defined based on which the initial decision of the commission could be overturned. The current procedure for filing objections has proven to be ineffective in practice, as it is never probable that the commission that already decided on the submitted projects would overturn their own decision in the procedure initiated based on the objection, especially when the decision-making and programme evaluation processes are insufficiently transparent and defined. Furthermore, it is not appropriate for the same body that made the decision to decide on the legal remedy. The objection-filing procedure needs to be defined in detail while considering introducing a second-instance authority that would decide on appeals or change the manner of the decision-making in the first-instance.

Moreover, nothing was said about the publishing and serving decision on the selection of programmes, nor on the possible legal remedies against such decision. According to the Law on Administrative Disputes, an administrative dispute may be initiated against all final administrative acts except those envisaging a different kind of judicial protection. However, an administrative dispute as a legal remedy to the final decision on the allocation of funds is not suitable for associations due to the imposed costs, and it additionally does not represent an efficient method for the protection of rights. Disputes take long, and even once completed, the damaged associations do not receive satisfaction as the funds have already been allocated and projects completed. The possibility of introducing an accelerated and urgent procedure with the

Administrative Court needs to be considered as a potential legal remedy in this case, same as the existing mechanisms for the protection of bidders in public procurement procedures, and then analyse which elements and good practices could be replicated.

Protection against political influences on the decision-making process, i.e. the finality of the commission decision, also needs to be ensured. Since the current normative solution provides that the commission determines the ranking list while the authority makes the final decision, it often happens in practice that funding providers envisage in their respective rulebooks an option for the head of the authority (president of the municipality, mayor, minister) to change the decision of the commission without any explanation.

3.7. Monitoring and evaluation of projects

The Regulation sets forth that the authority is obligated to monitor the implementation of programmes for which funding was approved, while an association implementing the programme is bound to enable the authority to do this.

First of all, a possibility should be considered to involve in the monitoring of the programme implementation other authorities apart from the funding provider. Such authorities could include the Ministry for Human and Minority Rights and Social Dialogue, having in mind the mandate of this authority to raise the capacities and sustainability of work and actions of civil society organisations, and other line ministries for calls in their respective areas, regardless of the fact which particular authority is actually allocating funds. Furthermore, besides the requirement for the programme implementer to provide the funding provider with insight into its implementation, it is necessary to ensure access to the interested public to the implementation of programmes and projects financed by public funds. In response to numerous complaints about the transparency of the process and the effects of budget allocations to associations, introducing public access as a principle of financial support to associations would demonstrate a willingness to enhance the transparency of the entire process.

According to the Regulation, monitoring the implementation of programmes includes:

- 1) the obligation of the association to **inform the competent authority** about the programme's implementation within the deadlines specified in the contract;
- 2) **review of reports** by the competent authority;
- 3) **monitoring visits** by representatives of the competent authority;
- 4) the obligation of the association to allow representatives of the competent authority to **inspect relevant documentation** generated during the programme's implementation;
- 5) **gathering information from programme beneficiaries;**
- 6) **other activities specified in the contract** (e.g. an audit by an authorised auditor);

The Regulation stipulates the obligation of the association receiving funds to **prepare periodic and final narrative and financial reports**. Determining the reporting schedule and the exact report format is left to the funding provider's discretion. To standardise practices, the Regulation must prescribe uniform deadlines for reporting and introduce the obligation to use standardised reporting formats. It would also be desirable to require the publication of approved narrative and financial reports on the website of the competent authority and the eGovernment portal. Having in mind the existing obligation to publish calls for proposals on these platforms, this solution comes as logical and natural. To ensure that the monitoring of implemented programmes and projects fulfils its purpose and is not just a formality, the Regulation should first clearly define the objectives of this process.

One way of monitoring the implementation mentioned in the Regulation is by monitoring visits. A **monitoring visit** includes visits to the association, holding meetings, and attending specific events and activities that the association carries out as part of the programme implementation.

At least one monitoring visit must be conducted during the implementation of a programme lasting more than six months and with approved funds exceeding RSD 500,000.00. For programmes lasting more than a year, monitoring visits must be conducted at least once a year.

It would be desirable to introduce the obligation to plan monitoring visits to the competent authority at the call level, specifying essential elements (such as: who in the competent authority is responsible for conducting monitoring visits and how they are conducted). It should be first ensured that the competent authority understands the need and objectives of monitoring and then plan monitoring visits to all supported associations in a timely manner. To standardise practice, a uniform monitoring methodology should be prescribed, and the obligation to use uniform standards and criteria should be introduced. Publishing monitoring reports on the website of the competent authority and the eGovernment portal would further ensure the transparency of the entire process.

The Regulation also provides detailed definitions for **preventing a conflict of interest** when using earmarked funds. Associations are required to take all necessary measures to avoid conflict of interest and immediately inform the competent authority of any situations that constitute or could lead to conflict of interest 'in accordance with the law.' A flaw in this solution is that it is not clearly defined which particular law the Regulation refers to, and this should be corrected in subsequent amendments. It is stipulated that a conflict of interest exists when 'impartial execution of contractual obligations of any person bound by the contract is jeopardised due to the opportunity for that person to provide a benefit to themselves or associated persons (family members: spouse or unmarried partner, child, or parent), employee, member of the association, to the detriment of the public interest and in the case of family ties, economic interests, or other common interests with that person.' Each conflict of interest is considered separately by the competent authority, which may request all necessary information and documentation from the association. In the event that a conflict of interest is established, the competent authority will request the association to take appropriate measures within 30 days. It is noted that a conflict of interest does not occur when the beneficiary of the funds implements a programme targeting members of the association as beneficiaries who belong to socially vulnerable groups or persons with disabilities.

Furthermore, the Regulation provides the possibility for the entity to seek the consent of the competent authority for the **reallocation of funds** for the implementation of planned activities in 'exceptional circumstances.' Reallocation of funds can only be carried out after obtaining written consent or signing an annex to the agreement with the funding provider. However, the Regulation does not define in any way what exceptional circumstances could justify the reallocation of funds. It is necessary to specify the conditions under which consent for reallocation will be given or an annex to the contract will be concluded. Particularly when changes are made to planned activities that were subject to evaluation, it is necessary to ensure that the public and other applicants are informed.

The competent authority prepares a **report on the financial support provided** to association programmes from budget funds in the previous calendar year, which is also published on the official website of the competent authority and on the eGovernment portal. Furthermore, the Regulation mentions that the entity may conduct an analysis of the performance, quality, and level of achievement of programme objectives for which funds have been allocated, but only if

it deems that it would lead to improvements in a specific area. It is necessary to prescribe the obligation and establish the practice of conducting individual and aggregate evaluations of the effects of calls in relation to the strategic document of the authority in a specific area of public interest, and individual and aggregate evaluation reports should be published on the authority's website and the eGovernment portal. Considering past practices, the lack of transparency in decision-making and the often unclear purpose of allocated funds, this approach will ensure the measurement of project quality and effectiveness.

4. Call-based financing of programmes and projects in the youth sector

Call-based financing in areas of public interest related to youth is regulated by the **Law on Youth**¹⁷ and the corresponding **Rulebook on the Financing and Co-Financing of Programmes and Projects of Public Interest in the Youth Sector**¹⁸. This process is conducted following a special procedure.

Article 20 of the Law on Youth states that funds for financing programmes and projects of public interest in the youth sector are provided in the budget of the Republic of Serbia. Therefore, this Law and the related rulebook **prescribe the obligation of budget financing in this sector only at the central level**. Articles 25 and 26 further specify that autonomous provinces and local self-government finance funds intended for the "needs and interests of youth" in their territories in accordance with their own interests, needs, and economic capabilities. Furthermore, there is a clear prohibition on simultaneous financing of the same project with funds from authorities at different levels of government. The Law on Youth explicitly states that the programme implementer funded and co-funded in accordance with the provisions of this law **cannot use funds from the national, provincial, and local budgets simultaneously for the same activities**.

Regarding the eligibility criteria for participation in the call, the circle of potential applicants in this area is narrowed by the provisions of the Rulebook. Youth associations, associations for youth, and alliances can apply for calls under this regime **only if they are registered in the Unified Register of Youth Associations, Associations for Youth, and Alliances**, which is under the competence of the relevant Ministry.

Concerning the composition of the commission, the solutions in this area are somewhat better than those present in the Regulation that prescribes the general regime for calls aiming associations, but are still unsatisfactory. As stated in the Rulebook, the minister responsible for youth affairs forms a special commission "for the expert review of the submitted programme and project proposals," consisting of five members, three of whom are representatives employed in the Ministry. However, the provision does not specify the criteria for selecting the remaining two members, i.e., whether they are representatives of the expert public or are also appointed from the ranks of representatives of state authorities. In two calls announced in this area during 2020

¹⁷ Law on Youth, ("Official Gazette of RS", No. 50/2011), available at: <https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2011/50/1/reg>

¹⁸ Rulebook of Funding and Co-Funding of Programmes and Projects of Public Interest in the Youth Sector ("Official Gazette of RS, No. 30 of 20 April 2018.), available at: <https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/ministarstva/pravilnik/2018/30/1/reg>

by the Ministry of Youth and Sports, it was evident that in one case (Public Call for Financing and Co-Financing Programmes and Projects for the Implementation of the Goals of the National Youth Strategy and the "Youth Rules" programme)¹⁹, two members of the commission from the ranks of representatives of international organisations (OSCE and UNFPA) were present, while in the other case (Public Call to Stimulate Various Forms of Employment, Self-Employment, and Entrepreneurship of Youth)²⁰, only representatives of ministries were represented.

As stated in the Regulation, when evaluating proposed programmes and projects, the commission follows these **criteria**:

- 1) consistency of the results and effects of the programme or project with the objectives of the competition and contributions to exercise public interest in the youth sector;
- 2) capacity of the programme or project implementer;
- 3) content and feasibility of the proposed programme or project;
- 4) coverage and alignment with the needs of target groups;
- 5) sustainability of the effects of the programme or project;
- 6) appropriateness and rationality of costs;
- 7) visibility of the programme or project;
- 8) quality of the implementation of previous programmes or projects financed by the Ministry. Sustainability of the programme or project implementer;

Although these criteria are not much more detailed than those prescribed by the Regulation, a commendable solution is that the exact number of points per criterion is specified in the Guidelines, determined by the Ministry in accordance with Article 5 of the Regulation, and published as an integral part of the call on the official website of the Ministry and the eGovernment Portal.

However, despite some positive solutions, the most significant drawback of this "special regime" is that **there is no provision for the right to appeal in calls in this area**. Therefore, if participants in a call held under these rules suspect irregularities during the decision-making process, they do not have this appeal mechanism at their disposal. In response to the suggestion from Civil Initiatives to include the amendment of this rulebook by introducing the objection mechanism in the Action Plan for the Implementation of the Open Government Partnership Initiative in the Republic of Serbia for the period 2020-2022, the Ministry of Youth and Sports expressed the opinion that it would be inconsistent with the Law on General Administrative Procedure. They stated that not only would they not change their Rulebook to introduce the

¹⁹ The results of the Public call for funding and co-funding programmes and projects implementing the goals of the national Youth Strategy and the programme "Youth Rules" (Mladi su zakon"), available at: <https://www.mos.gov.rs/storage/2021/06/nsm.pdf>

²⁰ The results of the Public call for funding and co-funding programmes and projects supporting youth employment, available at: <https://www.mos.gov.rs/storage/2021/06/zaposljavanje.pdf>

possibility of objection, but that all other acts regulating call financing, where the option of objection is provided, should be reconsidered.

The implementer of the approved programme or project is obliged, at the request of the Ministry and at least twice a year, to submit a report on the implementation of the programme or project and the use of funds.

The minister may suspend further financing of the programme or project to the implementer of the approved programme or project who does not submit a report within the specified deadline.

5. Call-based financing of programmes and projects in the area of culture

When it comes to project co-financing in the culture sector, which is also conducted under procedures different from those established by the Regulation, the **Law on Culture**²¹ sets forth two articles regulating this area. The specificity lies in Article 10, which refers to calls for financing or co-financing cultural programmes and projects, while Article 76 addresses the (co)financing of projects in the area of culture. The Law remains vague regarding the existence of essential differences between these concepts since the introductory articles did not provide explanations of the meaning of certain concepts. The positive aspect of the legal text is that it **explicitly stipulates the obligation to announce calls for financing and co-financing projects in the area of culture at least once a year**, and this obligation applies equally to the Ministry of Culture and Information, as well as to the authorities of autonomous provinces and local self-government units. It is also envisaged that calls for financing or co-financing cultural programmes and projects should be announced for the next year within 60 days from the adoption of the budget for that year. In addition, autonomous provinces and local self-government authorities are obliged to inform the relevant ministry about the activities implemented within the culture development plan and

Unlike Call-based co-financing of projects of public interest in the field of public information, when it comes to projects in the culture sector, the Law does not specify the limit to which the funds can be provided based on a public call. The specificity of the regulatory framework in this area is also reflected in the explicit provision of the Regulation that the **commission will not consider one-off projects that have already been supported in previous calls announced by the same authority**.

Regarding the evaluation of calls by the commission, the **Regulation on the Criteria, Standards, and Procedure for the Selection of Projects in Culture Financed and Co-Financed from the Budget of the Republic of Serbia, Autonomous Province, or Local Self-Government**²² prescribes that each member of the commission will individually assess each project. There is also an obligation to prepare a written explanation for each considered project, containing the reasons for the acceptance or rejection of specific projects. The positive aspect of the regulatory framework in this area is **also the regulation of the issue of a possible conflict of interest** by explicitly prohibiting the participation of a commission member in the evaluation of projects they are potentially involved in.

Regarding decision-making, the Law on Culture and the Regulation envisage different solutions. Specifically, Article 76 of the Law provides that the minister or the competent authority of the autonomous province or local self-government decides on the selection of

²¹ Law on Culturei, ("Official Gazette of RS", No. 72/2009, 13/2016, 30/2016 - corrigendum, 6/2020 and 47/2021), available at: <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2009/72/1/reg>

²² The Regulation on the Criteria, Standards and Manner of Selecting Projects in the Area of Culture Financed and Co-Financed from the budget of the Republic of Serbia, autonomous province or local self-government nits, ("Official Gazette of RS", No. 105/2016 and 112/2017), available at: <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/vlada/uredba/2017/112/2>

projects by a reasoned proposal from the expert commission established by the body announcing the call. On the other hand, the Regulation in Article 7 stipulates that expert commissions for the selection of projects decide on the selection of projects in the announced call.

Unfortunately, the previous solution is not the last in a series of imprecise ones, considering that when regulating the possibility of concluding contracts for the financing or co-financing of projects in culture without a public call, the Law refers to a non-existent paragraph. Specifically, Article 76 of the Law leaves the possibility to allocate up to 25% of the funds from the total approved budgetary funds for project financing or co-financing in the case of an exceptionally significant project that could not be planned in advance. However, regarding the conditions under which it is possible to conclude this contract, Article 76, paragraph 10 of the Law refers to paragraph 13 of the same article, which is impossible considering that the mentioned article has 12 paragraphs. Assuming that it is a technical error and that it is actually referring to paragraph 12, which refers to the Regulation, for this legal regime to be applied, the project must meet at least three of the five following criteria:

- 1) Consistency of the project with the general interest in culture and the objectives and priorities of the calls;
- 2) Quality and substantive innovation of the project;
- 3) Capacities needed for the project's realisation, including:
 - professional or artistic capacities and
 - necessary resources;
- 4) Financial plan - elaboration, alignment with the project's activity plan, cost-effectiveness, and the inclusion of multiple sources of funding;
- 5) The impact of the project on the quality of the cultural life of the community.

Finally, there is no provision for the possibility of filing objections to the results of the call in this area, significantly jeopardising the legal position and equality of participants in the call.

6. Consolidated recommendations

It is undisputed that the institute of Call-based co-financing of projects of public interest, both in the field of public information and those related to projects implemented by associations, represents a legislatively provided instrument of immense importance for the functioning of the media and civil sectors. It is also undeniable that the problems that arise in practice regarding this method of financing emerge, to a lesser extent, from the inadequacy of the regulatory framework, especially in the case of co-financing media content, where it is significantly more qualitatively and comprehensively elaborated, and more due to the **blatant violation of its provisions by funding authorities and their inadequate sanctioning**. However, this analysis has identified several gaps and inadequate solutions, and the following are ten key recommendations for improving the efficiency and transparency of conducting public calls in both areas, based on observed common shortcomings in the legal regulations governing them:

1)	It is necessary to precisely define, by law, the obligations to announce calls in all sectors .
2)	Clearly define and prescribe a mandatory transparent and participatory procedure for determining public interest by introducing mandatory consultations with relevant stakeholders as a precondition for announcing calls;
3)	Prescribe minimum and maximum amounts of funds approved per project as a mandatory element of the call in all sectors , as well as the method of their determination ;
4)	Precisely define and consistently apply criteria for evaluation of submitted projects and programmes .
5)	By making the participation of the expert public mandatory and clearly defining the concept of "independent experts," ensure the expertise of Call-based calls ;
6)	Ensure the independence of evaluation commissions by clearly defining the concept of a conflict of interest ;
7)	By amending laws and accompanying regulations, ensure the finality of commission decisions and prevent them from being altered by decisions of organisational leaders;
8)	Improve or introduce effective appeal procedures before a second-instance authority regarding the ranking of evaluated projects;
9)	Prescribe the involvement of other entities (line ministry in the area in which the call is announced) besides the funding authority itself in monitoring the effects of Call-based co-financing . Ensure access to the interested public to the implementation of programmes and projects funded by public funds.
10)	To that end, prescribe the obligation of the funding authority to make approved financial and narrative reports on implemented projects accessible to the public .

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