

Note on Legal and Procedural Irregularities in the Previous REM Council Selection Process

Esteemed Members of the National Assembly of the Republic of Serbia,

We present this report to draw your attention to significant legal and procedural irregularities in the previous process of selecting members of the Council of the Regulatory Authority for Electronic Media (REM). This analysis is based on the findings of the Civic Initiatives' report updated April 30, 2025, and on the applicable provisions of the Law on Electronic Media (*Zakon o elektronskim medijima*, Official Gazette RS No. 92/2023). The selection process – meant to implement the new Law and renew the REM Council after the expiry of the previous members' mandates – has departed from the letter and spirit of the law in multiple respects. We respectfully urge that these issues be addressed and corrected without delay so that the current selection process of the REM Council is brought into full compliance with legal requirements, thereby upholding the integrity of this important regulatory body.

Below, we categorize the identified irregularities into three key areas: (1) irregularities concerning the **legality of candidates** nominated for Council membership; (2) irregularities concerning the **legality of nominators** (proposing organizations) participating in the process; and (3) **procedural violations** in the conduct of the selection process. For each category, we cite the relevant articles of the Law on Electronic Media and explain how the observed actions have violated those provisions. Our purpose in providing this detailed review is to assist the National Assembly in ensuring that the ongoing selection process is corrected and aligned with the law, in order to preserve the legality, credibility, and independence of the REM Council.

Irregularities Concerning the Legality of Candidates

Nominees Lacking Required Qualifications or Public Standing: Several nominated candidates did not fulfill the strict criteria set by Article 10 of the Law on Electronic Media regarding the expertise and reputation required of REM Council members. The law mandates that Council members be chosen from *distinguished experts* in fields relevant to media regulation and that each member must be a person of public repute who has **demonstrated commitment to freedom of expression, free information flow, human rights, civil society development, rule of law and democratic values**. It also requires a high level of formal education and professional experience in media or related disciplines. However, the previous candidate list included individuals whose professional background is only tangentially related to media, civil society or other fields defined by the Law. For example, at least one nominee's career has been primarily in marketing with no direct experience in journalism or media policy, and another is known mainly for work in voice dubbing with very limited experience in electronic media. One of the candidates faced

charges for discrimination against Rome during journalist work. Such profiles do not satisfy the standard of a *distinguished expert in areas significant to the regulator's work* as required by Article 10. The inclusion of candidates who lack relevant qualifications and a public record of upholding media freedoms contravenes the law's intent and undermines the credibility of the selection process.

Conflict of Interest and Incompatibility of Certain Candidates: The Law on Electronic Media explicitly enumerates categories of persons who **cannot** serve as REM Council members due to potential conflicts of interest (Article 15). Notwithstanding these clear prohibitions, some nominated candidates fall into disallowed categories. Most concerning, two nominees are long-time employees of the REM administrative service (regulatory body staff), a fact which **directly disqualifies** them from Council membership under conflict of interest principles. Including such individuals on the candidate list creates a clear conflict of interest – essentially inviting persons to oversee the very institution in which they are currently employed – and it raises serious concerns about the integrity and independence of the nomination process. The law forbids any person who is employed by or has financial interests in entities that engage in electronic media production or broadcasting from serving on the Council. By analogy, allowing REM's own employees to become their regulators runs counter to the spirit of Article 15(6), which bars individuals whose activities might call into question the regulator's independence and reputation. Furthermore, at least one nominee had overt ties to a political party's media outlet (as an editor of a media owned by a ruling party). While this person may not formally be a party official, their close association with a partisan media organ contradicts the non-partisan ethos expected of Council members and arguably violates the intent of Article 15(2), which prohibits political party officials from Council posts. These instances illustrate that candidates with clear conflicts of interest or political alignments have been put forward in violation of the incompatibility rules designed to ensure an impartial and independent REM Council.

Former Council Members Nominated in Violation of the Rotation Principle: A particularly grave irregularity is the nomination of individuals who have previously served as members of the REM Council, which the new Law on Electronic Media forbids. According to Article 17 of the law, a person who has served as a Council member **cannot be elected to the Council again**. This provision was introduced to ensure rotation in the Council's composition and to prevent the consolidation of influence by the same individuals over time. Despite this clear rule, the previous slate of candidates includes at least two former Council members. For instance, one nominee previously sat on the REM Council from 2011 to 2017, and another was, until very recently (November 2024), a member of the Council whose term expired under the new law's transitional timeline. Their candidacies

violated the explicit legal ban on re-appointment and undermined the purpose of the legislative reforms, which sought to refresh the Council's membership as of November 2024. Allowing former members to be nominated (and potentially re-elected) not only breaches Article 17, but also damages public confidence that the Council's composition will indeed be renewed as intended by the law.

Irregularities Concerning the Legality of Nominators

Unqualified or Unauthorised Nominating Organizations: The Law on Electronic Media strictly defines who may serve as authorized nominators for REM Council candidates, limiting this role to specific institutions and associations enumerated in Article 12. Each authorized nominator group is identified by clear criteria – for example, only accredited universities, certain media industry associations, registered journalists' associations with a minimum membership, etc. are permitted to nominate candidates. It has been observed, however, that entities **not meeting these criteria** have participated in the nomination process. A notable example is the **Serbian Chamber of Commerce (Privredna komora Srbije)**, which put forward candidates despite not falling under any category listed in Article 12. By law, every company in Serbia must be a member of the Chamber of Commerce, meaning the Chamber is a general business body and not a representative association of electronic media publishers in the sense intended by Article 12. Its participation as a nominator is therefore **ultra vires** (beyond the law's authorized scope). Allowing an organization that is not explicitly authorized by the statute to nominate candidates represents a direct breach of Article 12 and calls into question the legitimacy of the nominations it submitted.

Failure to Meet Statutory Criteria by Many Nominators: Even among those organizations that do nominally belong to the categories defined in Article 12, a great number have **failed to satisfy the specific requirements** set forth in the law for their category. Article 12 imposes conditions such as a minimum scale of activity or membership (e.g., journalists' associations must have at least 300 members with paid membership, media industry associations must represent at least 30 licensed media outlets, NGOs in certain fields must have completed at least 3 relevant projects in the last 3 years). These provisions aim to ensure that only bona fide, representative organizations participate in selecting Council members. In practice, many participating nominators did not meet these thresholds. For example, one media broadcasters' association that submitted candidates is organized as an "association of associations" and could not demonstrate that it directly represents the requisite 30 licensed media entities, nor was proof provided that its members hold the necessary broadcasting licenses. Similarly, in the **journalists' associations** category, it was found that the overwhelming majority of associations that

nominated candidates do **not** actually have 300 dues-paying journalist members at the time of the public call (meaning only one out of seven nominating journalist associations truly met Article 12(4)'s standard). Each of these cases reflects a lapse in enforcing Article 12's conditions. The presence of nominators that do not qualify under the law not only taints the legitimacy of the candidate list but also potentially skews the outcome by including nominees from groups that should have been ineligible to participate from the start.

Procedural Violations in the Selection Process

Lack of Verification and Enforcement by the Committee: The irregularities noted above point to a broader procedural failing: the responsible parliamentary Committee (the Committee for Culture and Information, which oversees the REM Council selection) did not adequately **verify the legal status of nominators** or enforce compliance with Article 12 before accepting their nominations. Many associations' claims were apparently taken at face value or not scrutinized, despite obvious discrepancies. By allowing unqualified nominators and their candidates to remain in the process, the Committee has deviated from its duty to ensure the law is upheld. We emphasize that Article 12's list of authorized nominators is exhaustive and conditional; any nominator not fitting those strict conditions should have been **formally excluded** from the process. Failing to do so has led to a situation where illegitimate nominations were considered, complicating and, at the end, repeating the whole selection process. This is an irregularity that the Committee must address – by instructing the Administration to remove all nominators (and their candidates) who did not meet the legal prerequisites, as the law requires. Only by enforcing Article 12 rigorously can the integrity of the elections be restored.

Violation of Legal Deadlines and Mandate Expiry: The timeline of the REM Council selection has not complied with the deadlines implied by the law, leading to a **legal gap in the Council's composition**. Under the new Law on Electronic Media's transitional provisions, members of the Council appointed under the previous law were to continue performing their function **only up to one year** from the new law's entry into force. Given that the law was published on October 27, 2023, this one-year extension elapsed on **November 4, 2024**. The clear intent of this provision was that by that date a new Council would be elected under the updated rules. However, as of April 2025 the selection process remains **ongoing and incomplete**, well past the prescribed timeframe. This delay means that the REM Council's mandate has not been lawfully refreshed, thus undermining the rule of law. The failure to conclude the appointment of new Council members by the end of the one-year transition period constitutes a serious procedural lapse. It is imperative that the Assembly recognize this delay as unacceptable and take swift measures to finalize

a lawful Council membership, thereby bringing the regulator back into compliance with Article 126 and preventing any further erosion of the Council's legitimacy.

Annulment and Repetition of the Public Competition: The conduct of the public competition for Council nominees has been marred by inconsistencies, evidenced by the fact that an earlier iteration of the selection process had to be **formally annulled** and restarted. In the course of the proceedings, the Committee for Culture and Information nullified a previous public call for nominations and issued a new call. The need to cancel and re-run the nomination process that included inadequate outreach, confusion over criteria, or the inclusion of ineligible participants reflect on the Committee's procedural handling. While restarting a flawed process was a necessary corrective step, unaccepting responsibility for the previous irregularities also signals that the new process could suffer from substantial legal and procedural defects. We note that any public competition of this nature should be carried out scrupulously per the law from the outset; the Assembly should inquire into **why** the initial call was voided and ensure that any procedural errors are not repeated in the current round. A transparent explanation and remediation of those errors would help restore confidence in the process.

Reports of Political Pressure During Nominations: Unofficial reports and analysis of this process have flagged that **political pressures** and undue influence were exerted on various nominators, which, while harder to document in legal terms, constitute a troubling procedural irregularity. According to the monitoring by Civic Initiatives, virtually *all* categories of authorized nominators experienced some form of political interference or pressure during the nomination phase. This ranged from subtle attempts to steer certain organizations toward nominating preferred candidates, to possibly orchestrated campaigns wherein large numbers of government-aligned groups flooded certain nominator categories to sway the outcome. In the category of organizations for the **protection of children**, dozens of NGOs were reportedly pressured to nominate specific candidates by the Cabinet of the Minister of Gender Equality. Such conduct, though external to the formal legal procedure, violates the **spirit** of an independent selection process envisaged by the law. The law's emphasis on candidates of high integrity and on independent nominating bodies presumes a process free from political manipulation. If nominators were coerced or influenced by political actors, the resulting nominations cannot be considered wholly fair or autonomous. We ask the National Assembly to be cognizant of these reports and to take them into account as a serious red flag. While political pressure may not be an easily justiciable violation, the Assembly has a duty to ensure that the final appointment of Council members is not a product of undue influence. This may require extra scrutiny of candidates who were advanced under suspect

circumstances and a recommitment to a merit-based selection unfettered by partisan interests.

Interference by the Executive Branch (Ministry Opinion): Another procedural anomaly was the intervention of the Ministry of Information and Telecommunications in the midst of the nomination process. The Ministry issued an official legal opinion regarding whether former REM Council members are eligible for re-selection. This opinion, reportedly suggesting that such individuals could be considered despite the new legal restrictions, directly contradicted the clear provisions of the Law on Electronic Media (Article 17) and created confusion among participants in the process. The **involvement of the executive branch** in a parliamentary appointment procedure is highly irregular and undermines the autonomy of the National Assembly in enforcing its own law. By pronouncing on the eligibility of certain controversial candidates (i.e. former Council members), the Ministry's unsolicited advice injected ambiguity where the law was explicit, thereby **undermining the integrity of the nomination process**. Such an act could be seen as an attempt to politically influence the outcome or to legitimize a breach of the law. Procedurally, the Assembly's Committee should rely on the law itself (and its own legal counsel) for guidance, rather than external opinions that are not grounded in the Law. We recommend that the National Assembly formally repudiate any interpretations contrary to the law's text and reaffirm that the selection process will honor the letter of Article 17 (i.e. excluding all former Council members from consideration). This will send a clear signal that the legislature stands by its laws and that outside interference will not be tolerated in what should be a rule-governed, impartial appointment process.

Conclusion and Call for Corrective Action

In light of the above findings, we respectfully call upon the National Assembly to take all necessary measures to **rectify the REM Council selection process and align it with the requirements of the Law on Electronic Media**. The irregularities documented – from unlawful candidates and nominators being allowed into the process, to procedural missteps and external pressures – pose a serious threat to the legality, integrity, and public credibility of both the process and the future Council itself. If unaddressed, these issues could result in an unlawfully constituted REM Council, which would undermine the regulator's decisions and the broader media regulatory framework of Serbia. Conversely, if the Assembly addresses these issues without delay, it can ensure that the composition of the REM Council is independent, in line with the principles of the rule of law and the commitments the state has undertaken for the opening of Cluster 3, as well as progress within the Reform Agenda and the ODIHR process.

We urge the following corrective actions, in line with the law and the principles of rule of law:

- **Exclude Ineligible Candidates and Nominators:** The Committee for Culture and Information, under the Assembly's oversight, should disqualify candidates who do not meet the legal criteria (education, experience, independence, etc.) and reject any nominations submitted by organizations that were not authorized or did not fulfil Article 12 conditions. Only candidates and nominators in full compliance with the law should be permitted to proceed to the next voting stage. In any nominator group where this vetting leaves no remaining qualified candidate (for example, if all candidates from a particular sector were illegitimate), the proper course is to **restart the nomination process for that group** so that new, legally qualified nominations can be obtained. It is far better to briefly re-open a segment of the process than to confirm a member who fails to meet statutory requirements.
- **Ensure Transparency and Adherence to Procedure:** Going forward, every step of this selection process must be carried out with utmost transparency and strict adherence to the procedures laid down in the Law on Electronic Media. The scheduling of joint nominator meetings, the publication of final candidate lists, the organization of the public hearing with candidates (per Article 14, paragraph 8), and the placement of the election on the Assembly's agenda should all occur within the legal timeframes and with full transparency to the public. We recommend that the Assembly openly communicate the timeline for these steps and the criteria that will be used to evaluate any outstanding disputes (such as eligibility questions), so as to rebuild public trust in the process. Any allegations of political pressure or impropriety should be investigated or, at minimum, noted and factored as cautionary elements for further steps in electing members.
- **Preserve the Integrity of the REM Council:** Above all, the National Assembly is urged to remember that the **integrity and legality of the REM Council's composition is at stake**. The REM Council serves as a guardian of media standards and a guarantor of fair electronic media practices in Serbia. Its credibility directly affects public trust in the media sector and Serbia's compliance with international standards of media freedom. By ensuring that only lawful, independent, and qualified individuals are appointed to the Council through a scrupulously fair process, the Assembly will be acting to protect the integrity of Serbia's media regulatory system. This will also send a positive signal to domestic and international observers about Serbia's commitment to the rule of law and good governance. Conversely, overlooking the irregularities again and allowing a tainted process to dictate the Council's composition would fully destroy the REM's authority and further impair Serbia's democratic development.
- **Uphold Parliament's Responsibility in Final Selection:** We respectfully remind the Assembly that it bears the ultimate responsibility for electing REM Council members and

thus must exercise due diligence when the list of candidates is presented for a vote. Even if any irregular nominations should not be filtered out at the committee stage, the full National Assembly must **decline to support any candidate who does not satisfy the law's conditions**. In practical terms, this means that during the plenary vote, deputies should vote only for those nominees who are demonstrably qualified and legal.

In conclusion, we **respectfully request the National Assembly's urgent attention** to these matters. We are confident that, with prompt and resolute action, the Assembly can correct the course of the REM Council selection process and thereby uphold the law. This will ensure that the REM Council emerging from the current process is legally constituted, professionally competent, and fully independent – as envisioned by the Law on Electronic Media. Such an outcome is essential for preserving public confidence in the regulation of electronic media and for the overall health of the media landscape in the Republic of Serbia. We stand ready to support and assist the Assembly in any further capacity to achieve these goals, and we trust that you will give this report's recommendations due consideration in the interest of strengthening the rule of law and democratic governance in our country.

Respectfully,

Civic Initiatives

Belgrade, May 13, 2025

[The reports of Civic Initiatives are based on reports and information received by concerned civil society organizations monitoring the REM Council selection, done with the aim of supporting lawful and transparent institutional processes.]

Sources:

1. Law on Electronic Media (Official Gazette RS No. 92/2023), key provisions on Council member qualifications, conflicts of interest, authorized nominators, and selection procedure.
2. *Civic Initiatives* – Analysis of the REM Council selection process, updated April 30, 2025 (irregularities in candidates and nominators).
3. Official records of the Committee for Culture and Information

This note has been submitted to the National Assembly of the Republic of Serbia, as well as to relevant stakeholders in the international community.