

## **Establishment of a new co-regulation system in the Hungarian media regulation (Articles 190-202 of the Media Act)**

András Koltay – András Lapsánszky

*The co-regulation system of the Media Act provides an opportunity for self-regulatory organizations to participate in the arrangement of cases falling under the competence of the Media Council. This, compared to other types of self-regulations found in other sectors and administrative areas (e.g. alternative dispute resolution procedures such as conciliation or mediation), is a stronger - the strongest possible and still constitutional - authorization ensured to self-regulatory organizations to conduct proceedings prior to the Media Council exercising its administrative powers. The self-regulatory organization upon the authorization by the Media Council provided in an administrative contract based on its activities conducted, exercises a public function. This justifies the prescription of rules, which can be considered guaranteed and constitutional, in the Media Act regarding the oversight of procedures and activities of the organization falling within the scope of the authorization, as well as the termination of the administrative contract. Also because of the provision of public function, the Media Act permits that the Hungarian Media Authority provide financial assistance to the self-regulatory organization for carrying out its duties, subject to its annual itemized accountability.*

*The determination of the scope of organizations participating in the co-regulation system, and the type of press products and media services included in the scope of co-regulation, as well as the Media Act and Press Freedom Act provisions that can be monitored, is not a constitutional question but a license of the Parliament stemming from its legislative and organizational authority. With this respect, it can be only examined from a perspective of constitutionality whether the relevant rules satisfy the requirements of the rule of law and legal certainty, which constitutional principles, in our opinion, are not violated in any respect by the co-regulation rules of the Media Act.*

The chapter on co-regulation is a completely new element of the Media Act compared to the previous regulations, which enables professional self-regulatory organizations to participate in the application of law. In the following section “co-regulation” refers to cooperation between professional organizations and the Authority for the sake of complying with statutory regulations, but as these organizations are primarily self-regulatory due to their nature and may also define norms that are binding on their own members, the term “self-regulation” also appears in the text.

The Media Act thereby acknowledges the significance of the self-governing activity of self-regulatory organizations in media administration. The importance of self-regulation and co-regulation is recorded by the AVMS Directive as well. The AVMS Directive highlights in this context that the measures aimed at attaining objectives of public interest in the media service sectors will be more efficient if they are taken with the active support of service providers. The co-regulation procedure regulated in the Media Act is a novelty with respect to both Hungarian public administration and its administrative sectors, as a whole. It is a unique solution subject to the rule of law, which complies not only with the regulations of the European Community, but with the Hungarian constitutional principles as well, despite its novel nature.

The main novelty of the co-regulation system introduced by the Media Act, compared to forms of self-regulation existing in other sectors (such as alternative dispute resolution procedures such as conciliation and mediation, and ethical codes of conduct), is the authorization granted by the Media Council. Based on such authorization, self-regulatory organizations may fulfil the public duty of applying the statute when they may examine the complaints making reference to a legal violation in the course of their own procedure, prior to the regulatory procedure.

The new co-regulation system is not a dispute resolution procedure (which can only settle disputes falling outside the competence of the Authority, arising between two or more parties, similarly to arbitration courts). The new system extends the regulation and the framework of shared enforcement of rights to the entire “civil sector” linked to media administration (associations and other self-regulatory organizations, in other words, not just public organizations or other administrative institutions).

The statute provides the strongest (and still constitutional) authorization that may be granted in this context to self-regulatory organizations. The Media Council may authorize the self-regulatory organization in an administrative contract to proceed prior to the Media Council’s procedure, without exercising any public authority, with respect to its members and all such other media service providers or publishers who voluntarily subject themselves to the self-regulatory procedure, in case a complaint is filed.

The role assumed by self-regulatory bodies affects those official matters within the Media Council’s competence the resolution of which is shared by the Authority with the self-regulatory organizations. The Media Act defines the types of cases, with respect to print and online press and to on-demand media services (in relation to all rules affecting media content), for the resolution of which regulatory organizations may be authorized.

The regulation provides participation opportunities in enforcement activities for the self-regulatory organization with respect to on-demand media services and press products. With respect to linear media services, the Media Act does not define administrative authority and case type within the framework of co-regulation, because regarding this type of media service, the legislature deemed necessary to fully keep the oversight of relevant provisions within a state-maintained administrative framework.

The definition of duties, types of media services, and scope of self-regulatory organizations involved within the framework of co-regulation is the discretion and right of the legislature to decide. By passing laws, the Parliament is entitled to determine the division (sharing) of state tasks and also the type of non-state organizations it involves and the extent these organizations are involved in performing the public functions. (In order to ensure compliance, the Media Act contains safeguards provisions.) Within this, constitutionality questions can only be raised regarding whether the involvement of non-state organizations in the state duties took place in accordance with the requirements of the rule of law and without risking legal certainty, and whether the legal regulation of the issues mentioned complies with these fundamental constitutional principles and norms. It is important to emphasize that the Parliament has organizational power and constitutional authority. In other words, our opinion is that it is not a constitutional issue (since the Constitution itself provides this possibility) as to what kind of organizations the Parliament involves in the system of carrying out state duties, but only the regulatory method of task sharing and the assignment of duties and competences can be examined. (Similarly, it cannot be a constitutionality issue whether the Parliament establishes a given public body to carry out a task of public interest.)

Within the framework of self-regulation, the other field, besides administering specified official matters, is cooperation in fulfilling non-regulatory tasks, as well as in providing programs and pursuing objectives that are not of public interest, but are closely related to media administration. In the context of cooperation, the Media Council may provide support to self-regulatory organizations in fulfilling their duties, on the use of which the latter must report annually.

The novelty and unique feature of the co-regulation system of the Media Act compared with other self- and co-regulation systems in other administrative sectors is the fulfilling of tasks concerning administrative cases. In other words, that the self-regulatory organization, based on the authorization provided by the Media Council, fulfils the public function (administrative duty) of applying the Media Act and the Press Freedom Act, as it is authorized to examine complaints of legal violations under its own proceedings, prior to an administrative proceeding. The self-regulatory organization does not exercise administrative authority during these activities, as its proceeding precedes but does not substitute the exercise of administrative authority and proceeding of the Media Council.

From the perspective of safeguards, it is important to set out the main rules of the proceeding preceding the exercise of administrative authority of the Media Council, and the possibility of the termination of cooperation by the Media Council in case of inappropriate fulfilment of the tasks has to be guaranteed on a statutory level (so it can terminate the administrative contract). It should be emphasized that before the termination of the agreement, the Media Council issues an official notice (Article 201(4) of the Media Act), in other words, the self-regulatory organization has an opportunity to rectify the mistakes and omissions before the termination.

Based on the system of co-regulation, self-regulatory organizations and the Media Council conclude a cooperation agreement (administrative contract), in which they specify the detailed rules governing the performance of duties. The administrative contract containing the authorization contains public law elements, but essentially, it is a private contract. With respect to the contract, the Media Act instructs to apply the general rules pertaining to contracts of the Hungarian Civil Code. Termination is an element of the contract governed by public law. Since the self-regulatory organization performs public functions, the legislature may consider and define what kind of legal violations result in the discontinuation of the activities and the termination of the contract.

The professional code of conduct, approved by the Media Council, in which the self-regulatory organization defines the administration of duties, is a compulsory element of the administrative contract. Although the code of conduct is formulated by the self-regulatory organization, it must be sent to the Media Council for consultation. In the context of consultation the Media Council only examines compliance with applicable laws and regulations, but the institution of consultation has a particular significance, as the acceptance of the code of conduct by the Media Council is a condition of the conclusion of the administrative contract.

According to the Media Act, in the co-regulation system, a procedural and substantive system of rules and professional code of conduct created by the self-regulatory organization - that has a binding effect on its membership - is particularly important. In the code of conduct, within regulatory limits, the organization is free to establish the rules and requirements its members

are obligated to observe, and the organization is also entirely free to define under what procedural order it monitors its own rules and the rules of the Press Freedom Act and Media Act regarding the authorization, and how it chooses to proceed in case a complaint is filed claiming the violation of the code or the regulation. The self-regulatory organization is also free to establish a sanction system to penalize its members violating the norms. Membership in the organization is voluntary, so the potential members have the option to decide whether or not they accept the sanctioning and other rules of the code. Since the self-regulatory organization does not receive an authorization of public power and administrative authority, therefore it is not necessary to regulate under the Media Act the system of “legal consequences” that can be defined in its relevant procedures. The Media Council examines the code exclusive based on legitimacy. And the fact that the code is a compulsory, substantive element of the administrative contract and that the agreement regarding the content of the code between the Media Council and the self-regulatory organization is a validity condition of the conclusion of the contract is a safeguards rule and is prescribed by the Media Act for the sake of the appropriate performance of duties.

The authorization contained in the administrative contract may extend to content regulation provisions of the Media Act (Articles 9-40) and Articles 13-20 of the Press Freedom Act regarding oversight by the self-regulatory organization. These rules, especially the relevant provisions of the Press Freedom Act, are legal norms worded on a high abstraction level. In the course of the self-regulatory proceeding, the organization analyzes and applies these rules to the concrete case. If the members bound by the decision of the self-regulatory organization or the persons/organizations filing the complaint against these members disagree with the decision of the organization, they may contact the Media Council. The self-regulatory proceeding only precedes but does not substitute the administrative proceeding of the Media Council, and in this proceeding, the Media Council is not bound by the decision and legal analysis of the organization (Article 199(1)-(2) of the Media Act). Pursuant to Article 201(5) of the Media Act, in case of legal violation of the proceeding or decision of the self-regulatory organization, the Media Council initiates a regulatory proceeding with respect to the proceeding or decision. Based on the foregoing, it can be concluded that the Media Council can act only in a proceeding of legal remedy or in an inspection performed within the framework of its oversight authority over the self-regulatory organization, but it cannot revoke at any time the procedural authorization from the self-regulatory organization. The legislature is entitled under its organizational authority to enact the rules regarding oversight of the activities of the self-regulatory organization. From a constitutional perspective, the only aspect that can be examined is whether the relevant rules establish an organized oversight system that comply with the requirements of the rule of law.

In the official matters defined in the administrative contract, enforcement by public authority and administrative powers “recedes” in order to provide space for private and self-governance. On account of the affected administrative powers, the statute contains detailed provisions on the contents and framework of the authorization and defines the fundamental rules of the self-regulatory organization’s procedure, so as to provide a framework of safeguards.

Regarding the self-regulatory organization's procedure, it is important to highlight that the self-regulatory organization does not hold administrative powers when administering the cases, and therefore, does not take on the status of a “quasi” administrative body. The Media Council may theoretically use its powers in specified cases following the conclusion of the

administrative contract, thus, the self-regulatory organization's procedure precedes, but does not substitute the exercise of powers by the Media Council. In these cases, the self-regulatory organization shall proceed regarding those who have voluntarily subjected themselves to the code.

If voluntary enforcement is inadequate in the relations between the self-regulatory organization and the service providers and publishers that have accepted the code (for example, if the self-regulatory organization finds the violation of the code, and thereby, of the statute, but the affected party refuses to execute the sanction imposed), the Media Council may exercise its administrative competence and powers. In respect of the official matters itemized in the statute and forming the subject of authorization, the domain of public administration law and enforcement flexibly recedes and entrusts the self-regulatory organization with the administration of the public duties within the scope of its own self-governing activities, without granting any public authority or administrative powers. This does not mean a form of decentralization of state duties but ensures, within a guaranteed framework, the participation of self-regulatory organizations in the process of enforcement.

Decisions made by self-regulatory organizations pursuant to the co-regulation provisions of the Media Act are binding on the parties that are subject to the code. This power of self-governance is offset by strong public safeguards, in particular, by the fact that self-governance can only be exercised regarding those who have either voluntarily assumed membership as a self-regulatory organization or have voluntarily subjected themselves to the code of conduct. The self-regulatory organization must keep a register of its membership and of the companies that have accepted the code of conduct, in order to clearly identify the scope of persons the self-regulatory organization can proceed against.

The financial assistance for the performance of duties by the self-regulatory organizations is an option and not an obligation of the Media Council. The statutes defined this option with respect to the fact that the self-regulatory organization performs public functions in the framework of the authorization. When an organization performs public duties, taking into account its financial resources, on occasion, it may become necessary that the entity assigning the duty provides financial assistance for the performance of the duties.

The itemized accountability obligation of the self-regulatory organization ensures that the use of the financial assistance is transparent and can be monitored. With respect to the possibility of influencing the activities of the organization through financial assistance, it has to be emphasized that the Media Council has only oversight authority over the activity of the organization, and the relevant rules of the Media Act guarantee that the Media Council only intervenes in the performance of duties of the organization within the framework of oversight and monitoring and with the tools of oversight.

We wish to note that the functioning of the Media Council is monitored by the Parliament, and its financial management is expressly monitored by the State Audit Office pursuant to Article 134(11) of the Media Act, which guarantees that the financial assistance provided to the self-regulatory organization be justified and well-founded.

The annual or semi-annual reporting obligation of the self-regulatory organization (Article 202 of the Media Act) serves the oversight over the activity of the organization. Oversight does not imply the supervision of the entire organization or the entire scope of activities of the self-regulatory organization. Its scope only applies to the oversight of the self-regulatory activity.

The Media Council's supervision allows the review of the individual procedures of a self-regulatory organization, on the one hand, since the undertaking affected by such decision may initiate a review of the decision in this respect, if it considers the decision unsatisfactory. On the other hand, the Media Council also conducts general reviews of the procedures of the self-regulatory organization. The latter, however, does not imply the supervision of the entire scope of activities and the organization of the self-regulatory organization. The Media Council's competence only and exclusively extends to the supervision of the self-regulatory organization's activities and decisions performed and adopted within the context of co-regulation in order to verify whether the self-regulatory organization passes its decisions in compliance with the authorization, legislation, and the code of conduct. If the Media Council discovers deficiencies, errors, or deviations from the code of conduct or the administrative contract, it first issues an official notice. If the stipulations of the official notice remain unfulfilled, the Media Council may terminate the administrative contract.

---

## **Annex**

### **Act CLXXXV of 2010 ON MEDIA SERVICES AND MASS MEDIA**

#### **CHAPTER VI CO-REGULATION IN MEDIA ADMINISTRATION**

##### **General rules**

##### **Article 190**

(1) With a view to effective achievement of the objectives and principles set forth herein and the Press Freedom Act, facilitating voluntary observance of law and achieving a more flexible system for law enforcement on media administration, the Media Council shall cooperate with the professional self-regulatory bodies and alternative dispute resolution forums of media service providers, ancillary media service providers, publishers of press products, media service distributors and intermediary service providers (hereinafter for the purposes of this chapter: self-regulatory bodies).

(2) In the context of the cooperation defined under Paragraph (1), the Media Council shall have the right to conclude an administrative contract with a self-regulatory body established and operating in accordance with the pertaining legislation, with a view on the shared administration of cases falling within the regulatory powers expressly specified below, as defined in the present Chapter, and the cooperative performance of tasks, related to media administration and media policy, not defined as regulatory powers under legislation, but nevertheless compliant with the provisions of this Act.

##### **Article 191**

(1) Under the administrative contract defined in Article 195 (hereinafter as: administrative contract), the Media Council shall have the right to authorise the self-regulatory body to perform self-management tasks, as non-regulative tasks, in relation to its registered members and media service providers, media service distributors, intermediary service providers or publishers of press products agreed to be bound by the terms of the Code of Conduct as defined in Article 194 (hereinafter jointly referred to as: undertakings under the

scope of the Code) in official matters specifically defined in Article 192 (2), within the powers vested with it under the public contract, prior to specific exercise of regulatory powers.

(2) The authorisation granted under Paragraph (1) shall not vest public administrative, executive and regulatory powers on the self-regulatory body, and the self-regulatory body shall not be deemed as an administrative authority, or a subject of the system of public administration under this authorisation.

(3) The authorisation granted under the administrative contract shall not prejudice the powers of the Media Council under this Act, the Media Council shall have the right to act in official matters, irrespective of this authorisation, with due heed to the deviations set forth in this Chapter.

### **Article 192**

(1) The Media Council shall conclude the administrative contract with the self-regulatory bodies fulfilling the conditions set forth on Article 190 (2), whose registered scope of activities covers or directly affects the official matter for which the authorisations was granted and that maintain a precise and verifiable registry of the undertakings under the scope of the Code.

(2) In the administrative contract, the Media Council shall have the right to grant authorisations to self-regulatory bodies to manage the following types of official matters as non-regulative tasks, in relation to the undertakings under the scope of the Code:

- a) exercise supervision over compliance with Articles 14–20 of the Press Freedom Act or any of those provisions in relation to printed press products ;
- b) exercise supervision regarding compliance with Articles 14–20 of the Press Freedom Act or any of those provisions in relation to online press products ;
- c) exercise supervision regarding compliance with Articles 13–20 of the Press Freedom Act or any of those provisions in relation to on-demand media services;
- d) exercise supervision regarding compliance with Part Two, Chapter I of this Act or any of those provisions in relation to on-demand media services.

(3) The authorisation granted to the self-regulatory body by the Media Council for the official matter type defined under Paragraph (2) shall cover:

- a) administering single cases related to undertakings under the scope of the Code (including the procedure on applications and complaints involving the activities of the members);
- b) settlement of disagreements and legal disputes - involving the scope of the authorisation - between undertakings under the scope of the Code ;
- c) supervision of the operation and conduct of undertakings under the scope of the Code in relation to the authorisation.

### **Article 193**

(1) Under the administrative contract, the Media Council and the self-regulatory body may agree on joint performance of tasks, and implementing principles of activity and service development, programmes of public concern not regulated in legislation but closely linked to media administration and media policy, and any other objective related to media.

(2) The rules on the tasks of self-regulatory body, under an authorisation in an administrative contract, defined in this chapter are laid down in detail in the administration contract.

(3) The Authority shall have the right to provide financing for the self-regulatory body to perform its tasks hereunder defined; the self-regulatory body shall give an account of its

usage to the Authority each year by 31 May, on an item-by-item basis.

#### **Article 194**

(1) The administrative contract concluded by the self-regulatory body and the Media Council shall include a Professional code of conduct as a substantive part thereof, developed by the self-regulatory body, defining the self-regulatory performance of tasks as defined in the present Chapter (hereinafter as: the Code of Conduct).

(2) The Code of Conduct shall be prepared by the self-regulatory body in the course of the conclusion of the administrative contract and shall be sent to the Media Council for consultation purposes. The Media Council shall examine the Code of Conduct as to whether it complies with relevant legislation. The condition for the validity of the conclusion of the public contract shall be that an agreement is reached by and between the Media Council and the self-regulatory body concerning the Code of Conduct.

(3) The Code of Conduct shall specify in detail, within the scope of the authorisations granted in accordance with Article 192, the provisions on proceedings and guarantees related to the self-regulatory tasks to be performed by the self-regulatory body, the relevant rights and obligations of the members, the relationship between the members and the self-regulatory body, within the context of the authorisation, and the types, system and the legal impacts of decisions, within the discretion of the self-regulatory body.

(4) In addition to the provisions of Paragraph (2), the substantive part of the Code of Conduct shall describe the rules, conditions and requirements concerning the activities, services and conduct designated by the scope of the authorisation.

#### **Article 195**

(1) The relationship between the Media Council and the self-regulatory body under this Chapter shall be regulated by the Parties in detail in the administration contract.

(2) The Media Council shall pass a decision in relation to the conclusion of the administrative contract.

(3) The administrative contract may be concluded in writing only.

(4) The Media Council, following the conclusion of the administrative contract, shall have the right to inspect the registry maintained on the undertakings under the scope of the Code and may request that the self-regulatory body furnish data from the registry so that it may perform its tasks defined in this Chapter concerning the self-regulatory body.

(5) In respect of administrative contracts, the general provisions of the Civil Code of the Republic of Hungary shall apply, with due heed to the deviations herein contained.

#### **Article 196**

(1) The Media Council shall have the right to terminate the administrative contract with immediate effect, in the event that the self-regulatory body:

a) commits a grave or repeated breach of the provisions of the administrative contract, or

b) performs its tasks defined in the administrative contract in deviation from the agreement terms or the terms of the Code of Conduct.

(2) The administrative contract concluded for an indefinite period of time may be terminated by any of the parties with a thirty day notice.

### **Proceedings of the Self-regulatory Body**

#### **Article 197**



(1) The self-regulatory body shall act in official matters subject to the authorisations granted thereto in relation to its members as an entity performing the tasks within its own scope of competence and not as tasks under the regulatory powers of authorities, as provided for in this Chapter and the administrative contract. In so doing, its involvement shall have priority over and supplement the activities of the Media Council acting in its regulatory powers (hereinafter as: self-regulatory procedure).

(2) In official matter types defined in the administrative contract the Media Council shall have the right to proceed against the members of the self-regulatory body only if in its opinion the particular action of the self-regulatory body does not comply with relevant legislation or the provisions of the public administration agreement concluded by the parties.

(3) The self-regulatory procedure on the part of the self-regulatory body shall precede the regulatory procedure of the Media Council.

(4) The self-regulatory body shall be responsible for elaborating, accepting and enforcing an internal regulation of procedure regarding its members that is capable of ensuring proper and effective performance of tasks defined in this Chapter and the appropriate observance of the rules contained in this Chapter. When due to failure to fulfil the provisions set forth above, the self-regulatory body is unable to properly perform its tasks defined in this Chapter and the administrative contract concluded with the Media Council, the Media Council shall have the right to terminate the public administration agreement.

#### **Article 198**

(1) The self-regulatory body shall act upon an application requesting its self-regulatory procedure. Irrespective of the foregoing, the self-regulatory body shall also have the right to institute proceedings in cases falling within its scope of competence based on its own decision.

(2) The statutory period for the self-regulatory procedure by a self-regulatory body shall be thirty days, which – in justified cases and with due heed to the complexity of the case and the difficulties that may arise in revealing the facts of the case - may be extended by fifteen days. A shorter period may also be provided for under the administrative contract.

(3) When the Media Council receives an application in a subject falling within self-regulatory procedure, it shall forward the application to the self-regulatory body, considering the membership of the self-regulatory body and other associations subject to the Code of Conduct. When the case does not fall within the competence of the self-regulatory body after all, or the undertaking involved in the application is not subject to the Code of Conduct, the self-regulatory body shall forthwith return the application to the Media Council. When the self-regulatory body institutes its proceedings on the basis of the application forwarded by the Media Council, it shall refund to the applicant any dues and fees paid concurrently with the initiation of the proceedings of the Media Council.

(4) In the case defined under Paragraph (2), the application for the initiation of the proceedings of the Media Council shall not be deemed as an application giving rise to the obligation to institute proceedings as defined in the Act on the General Rules of Administrative Proceedings and Services, except when the application is returned by the self-regulatory body to the Media Council. In such cases, the regulatory procedure of the Media Council shall be commenced on the day that the application returned by the self-regulatory body arrives to the Media Council.

(5) When the self-regulatory body receives an application that falls beyond the scope of its competence but is related to the powers of the Media Council, the self-regulatory body shall forthwith inform the applicant about the relevant powers of the Media Council, the opportunities to initiate proceeding and the rules thereof.

**Article 199**

(1) The self-regulatory body shall assess the application in light of this Chapter, the administrative contract concluded with the Media Council and in particular the Code of Conduct constituting an integral part thereof and shall pass its decision in the case. The decision of the self-regulatory body has a binding force on the undertakings subject to the Code of Conduct and may set forth obligations. When the decision sets forth obligations, the self-regulatory body shall set an appropriate deadline to allow compliance therewith. The self-regulatory body shall inform the Media Council of the decision containing obligations within ten days of the expiry of the deadline. The Media Council shall review the decisions containing obligations sent by the self-regulatory body. When the revision of the self-regulatory body's decision is requested by the applicant or the party obliged under the decision, the Media Council shall review such decision within thirty days.

(2) When the Media Council establishes that the decision of the self-regulatory body does not comply with the provisions of the administrative contract concluded with the self-regulatory body and in particular the provisions of the Code of Conduct, or when in its judgement the decision contradicts legislation, or when it establishes that the self-regulatory body is unable to have its decision properly observed, it will institute an regulatory procedure in the case covered by the application. In its procedure the Media Council shall not be bound by the procedure and decision of the self-regulatory body.

**Article 200**

(1) The proper and effective performance of the tasks and activities falling beyond the scope of the regulatory powers of the Media Council but covered by the administrative contract concluded with the self-regulatory body shall be an independent task of the self-regulatory body, in line with practice formulated thereby. The Media Council shall cooperate with the self-regulatory body on a continuous basis, providing support and incentive for performing its tasks.

(2) The parties shall notify one another on a continuous basis of their experiences regarding the performance of non-regulatory tasks defined under Paragraph (1) and the execution of other procedures. The self-regulatory body shall perform these tasks based on the administrative contract concluded with the Media Council and the Code of Conduct constituting an integral part thereof. To the extent possible, the Media Council shall take into account the experience earned in performing these tasks in exercising its regulatory powers, executing its regulatory procedures, performing market analysis, assessment and - in particular - drafting legislation.

**Supervision Over the Activities of the Self-regulatory Body Provided for in this Chapter****Article 201**

(1) The Media Council shall exercise supervision over the activities of the self-regulatory body under the administrative contract. In so doing, the Media Council shall have the right to check fulfilment of the provisions of the public administration agreement concluded with the Media Council on the part of the self-regulatory body on a continuous basis and their delivery in accordance with the agreement. In the context of supervision, the Media Council shall have the right to familiarise itself with all the activities performed by the self-regulatory body in connection with the public administration agreement, and to this end, may oblige the self-regulatory body to furnish data.

(2) To the extent deemed necessary, the Media Council shall subject the procedures

and decisions of the self-regulatory body defined in Articles 197-200 to comprehensive inspection. In so doing, the Media Council shall assess the decisions of the self-regulatory body, in terms of their compliance with the provisions of the administrative contract and the Code of Conduct constituting an integral part thereof on an individual and aggregate basis.

(3) When, in the context of the supervision, the Media Council establishes that the self-regulatory body failed to act or acted improperly in cases subject to the authorisations granted under the administrative contract, in particular

a) the self-regulatory body conducted the proceedings defined in Articles 197-200 in deviation from the provisions of the Code of Conduct;

b) it assesses the applications in deviation from the provisions of the Code of Conduct;

c) it passes its decisions with their content being in deviation from the provisions of the Code of Conduct, or

d) it fails to check compliance with or observance of its decisions and/or fails to take measures to ensure that the provisions of its decisions are fulfilled,

then the Media Council shall request that the self-regulatory body acts in accordance with the provisions of the administrative contract, setting an appropriate deadline.

(4) When the self-regulatory body fails to fulfil the request defined under Paragraph (3) within the specified deadline, the Media Council shall have the right to terminate the administrative contract with immediate effect or with a period of notice defined in the contract.

(5) When, on the basis of the inspection, the Media Council establishes that the proceedings and decision of the self-regulatory body contradict relevant legislation or the provisions of the administrative contract or the Code of Conduct that constitutes an integral part thereof, the Media Council, concurrently with establishing the fact of infringement, shall institute a regulatory procedure in the subject covered by the procedure and the decision.

## **Article 202**

The self-regulatory body shall prepare a report to the Media Council on its activities and tasks performed under the administrative contract on a continuous basis, but at least annually, while on the course, content, subjects of its self-regulatory proceedings, types, content and observance of its decisions at least every six months, in writing. The Media Council shall assess the report under its decision.