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Montenegro: New Telecommunications Regulator Lacks Independence

ARTICLE 19 is concerned that the regulator being proposed in a new draft Law on Electronic Communications for Montenegro – the Agency for Electronic Communications and Postal Services – lacks independence even though it would exercise significant regulatory powers over broadcasters. This is in clear breach of international standards and a significant rollback from the current situation, in which an independent Broadcast Agency is responsible for broadcast regulation.

The current Broadcasting Law, adopted in September 2002, establishes a best practice model for the appointment of the Broadcast Agency, responsible for licensing broadcasters and other key regulatory functions. A number of stakeholders nominate members of the oversight Agency Council, with appointments being ratified by the Parliament. In stark contrast, the current (February 2008) version of the draft Law, presently before Parliament, provides that members of the proposed Council of the Agency for Electronic Communications and Postal Services “shall be appointed by the Government, upon the Ministry proposal”. It is very well-established under international law that bodies which exercise regulatory powers over the media should be protected against political interference. A body which is appointed by the government, upon the nomination of a minister, clearly does not meet this standard.

The precise relationship between the old Broadcast Agency and the new Agency is not clear. The draft Law provides for the new Agency to take over the assets and staff of the Broadcast Agency, but it does not appear formally to abolish the latter. It is clear, however, that the new Agency exercises significant regulatory powers in relation to broadcasting, including licensing and planning of the radio frequency spectrum.

ARTICLE 19 calls on the Government and Parliament of Montenegro to revise the draft Law to bring it into line with international standards. The approach taken in the current Broadcasting Law serves as a good model of how this might be done.

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- ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name

from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.